

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
333 Queen Street
Honolulu, Hawaii 96813

September 9, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, HI

REQUEST FOR APPROVAL TO INITIATE RULE-MAKING PROCEEDINGS REGARDING
AMENDMENTS TO TITLE 13, SUBTITLE 11, OCEAN RECREATION AND COASTAL
AREAS, PARTS I, II, and III, HAWAII ADMINISTRATIVE RULES.

SUMMARY

1. Sections 13-230-8, 13-230-21, 13-230-27, 13-231-4, 13-231-5, 13-231-6, 13-231-13, 13-231-22, 13-231-25, 13-231-26, 13-231-27, 13-231-28, 13-231-29, 13-231-45, 13-231-57, 13-231-58, 13-231-59, 13-231-61, 13-231-67, 13-233-8, 13-233-27, 13-233-28, 13-233-29, 13-233-30, 13-233-31, 13-233-32, 13-233-33, 13-233-34, 13-234-1, 13-234-13, 13-234-15, 13-234-16, 13-234-26, 13-234-28, 13-234-29, 13-234-31, 13-243-5, 13-244-19, 13-256-5, 13-256-11, 13-256-16, 13-256-17, 13-256-18, 13-256-22, 13-256-24, 13-256-32, 13-256-33, 13-256-34, 13-256-35, 13-256-36, 13-256-37, 13-256-38, 13-256-39, 13-256-52, 13-256-54, 13-256-56, 13-256-71, 13-256-72, 13-256-73, 13-256-77 are amended. (See Exhibit A)
2. New sections 13-244-15.5, 13-256-42, 13-256-57, 13-256-72.1, 13-256-73.1, 13-256-73.2, 13-256-73.3, 13-256-73.4, 13-256-73.5, 13-256-73.6, 13-256-73.7, 13-256-73.8, 13-256-73.9, 13-256-73.10, 13-256-73.11, 13-256-73.12 are added. (See Exhibit A).

STATUTE: Chapter 200, Hawaii Revised Statutes

PURPOSE:

Amend Hawaii Administrative Rules (HAR) to allow the Division of Boating and Ocean Recreation (DOBOR) to better manage and facilitate boating and ocean recreation related activities within the State small boat harbors and near shore waters.

REMARKS:

This HAR amendment package has been over a decade in the making and represents countless hours of discussion and planning. DOBOR had been compiling and refining a long list of HAR amendments for numerous years and finally, in January 2009, began a public outreach campaign regarding the proposed HAR amendments as part of the Recreational Renaissance Plan. At that time, DOBOR informed the public that it would be amending the mooring and vessel registration fees in order to ensure that basic operating costs are met as well as other

portions of the HAR to make small boat harbor operations and management of marine related activities more efficient and enforceable.

On August 14, 2009, DOBOR requested preliminary approval from the Board of Land and Natural Resources to amend portions of Chapter 13, Sections 230-259, Parts I, II, and III of its HAR for clarity, to correct longstanding management issues, and to facilitate management of harbors and waterways under its purview now and into the future. Changes are being pursued because there has been a significant increase in the volume and types of recreational and commercial activities taking place in State waters since DOBOR's rules were originally finalized and last revised.

The proposed amendments encompass a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, etc. Among the amendments in this package are the new proposed HAR's regarding Kaneohe Bay that were developed in conjunction with the Kaneohe Bay Regional Council as well as the amended HAR concerning recreational and commercial marine activities taking place in Hanalei Bay, Kauai. Both of these amendments lay foundations for protecting and managing two prime, natural resources in a manner that is sustainable and equitable. Overall, the changes in this rule package are expected to greatly improve DOBOR's effectiveness and ability to manage its properties and programs as well as help the Division of Conservation and Resources Enforcement (DOCARE) improve its enforcement efforts.

While devising these rule amendments, DOBOR enlisted the help of informal review panels to gather input and recommendations regarding the proposed HAR amendments and pre-screen revisions for clarity and fairness. Panels were made up of representatives of the various user groups within the state small boat harbors as well as industry professionals, including mooring permittees, commercial operators, attorneys, the National Transportation Safety Board, the National Association of State Boating Law Administrators, marine surveyors, and legislative liaisons to name a few. The initial review panel meetings were held on November 3, 2009 for the Kauai District, November 4, 2009 for the Maui District, November 4, 2009 for the Hawaii District, and November 9, 2009 for the Oahu District. The review panel's second meeting was held in all districts during the month of May 2010. The review panels were also e-mailed the proposed HAR amendments for review and comment. The HAR amendments were also posted on the DOBOR website and were updated in a timely manner whenever any revisions were made. Input received from the review panels as well as the public was reviewed and revisions were made when warranted and consistent with Legislative mandates. The majority of the comments received from all parties centered on the following specific HARs:

- §13-230-8 - defines mooring categories, requires vessels to leave the confines of the harbor at least once every ninety days;
- §13-230-21 - adds the definition of "Personal partner;"
- §13-230-27 - requires the vessel owner/permittee to name a caretaker if the permittee does not reside on the island where the vessel is moored;
- §13-231-13 - clarifies that corporations may transfer as long as they have been issued a commercial use permit;

- §13-232-8 – requires insertion of dye tablets in Marine Sanitation Devices for vessels moored in DOBOR harbors. This amendment was deleted from the rule amendment package because of the many negative comments received from the review panels;
- §13-244-15.5 - adds the requirement for mandatory education;
- §13-231-45 - requires marine surveyors to be a member of a nationally recognized organization;
- §13-231-27 - changes the terminology in the rule from “shall” to “may” as it pertains to the issuance of principal habitation permits.

It should be noted that the commercial rules that pertained to the regulation of commercial activities on State waters were removed from this amendment package and will be part of a separate package that will come before the Board at a later date.

On June 10, 2010, DOBOR briefed the Board on the status of the rule amendment package. Because there had been numerous revisions, deletions, and additions to the original package presented on August 14, 2009 it was decided to request an additional review of the updated rule package by the Attorney General's office then return to the Board to request approval to continue with the rule making process. The Attorney General's office has reviewed the entire HAR amendment package and revisions were made based on that agency's input. The final approved amendment package is attached as Exhibit A. Also on the June 10, 2010 Board agenda, was Item J-2 that pertained to the denial of a request for a contested case hearing by attorney Richard Gronna on behalf of Bernard Morry. Mr. Morry had failed to renew his mooring permit prior to the expiration date and his account was closed and the mooring permit was offered to the next qualified applicant on the wait list according to HAR. The Board asked that DOBOR work with the Attorney General's office to determine whether there was a way to amend the HAR to give someone like Mr. Morry an opportunity to have their mooring permit reinstated if they could show that there were unforeseen circumstances beyond their control that prevented them from renewing the mooring permit prior to the expiration. After consultation with the Attorney General's office, Section 13-231-5 is being amended as part of Exhibit A and now provides a person the option of petitioning the Board to explain what unusual circumstance prevented them from renewing their mooring permit prior to the expiration. Under the proposed rule amendment, the Board will have the authority to determine whether to allow the mooring permit to be reinstated based on the circumstances. There is also a penalty provision in the rule amendment should the Board decide to reinstate the mooring permit.

An index that includes a brief description of each rule amendment is included as Exhibit B.

RECOMMENDATIONS:

That the Board:

1. Grant DOBOR approval to initiate rule-making proceedings regarding amendments to Title 13, Subtitle 11, Ocean Recreation and Coastal Areas, Parts I, II, and III, Hawaii Administrative Rules as shown in Exhibit A.

2. Authorize the Chairperson to appoint hearing masters to conduct public hearings to receive written and verbal testimony concerning the proposed amendments.

Respectfully submitted,



Edward R. Underwood
Administrator

Attachment: Exhibit A
Exhibit B

APPROVED FOR SUBMITTAL



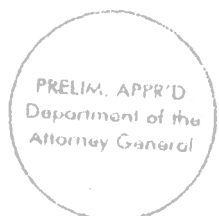
Laura M. Thielen
Chairperson and Member

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND RECREATION

Amendments to Title 13, Subtitle 11 Ocean Recreation
and Coastal Areas, Parts I, II, and III
Hawaii Administrative Rules

SUMMARY

1. Sections 13-230-8, 13-230-21, 13-230-27, 13-231-4, 13-231-5, 13-231-6, 13-231-13, 13-231-22, 13-231-25, 13-231-26, 13-231-27, 13-231-28, 13-231-29, 13-231-45, 13-231-57, 13-231-58, 13-231-59, 13-231-61, 13-231-67, 13-233-8, 13-233-27, 13-233-28, 13-233-29, 13-233-30, 13-233-31, 13-233-32, 13-233-33, 13-233-34, 13-234-1, 13-234-13, 13-234-15, 13-234-16, 13-234-26, 13-234-28, 13-234-29, 13-234-31, 13-243-5, 13-244-19, 13-256-5, 13-256-11, 13-256-16, 13-256-17, 13-256-18, 13-256-22, 13-256-24, 13-256-32, 13-256-33, 13-256-34, 13-256-35, 13-256-36, 13-256-37, 13-256-38, 13-256-39, 13-256-52, 13-256-54, 13-256-56, 13-256-71, 13-256-72, 13-256-73, 13-256-77 are amended.
2. New sections 13-244-15.5, 13-256-42, 13-256-57, 13-256-72.1, 13-256-73.1, 13-256-73.2, 13-256-73.3, 13-256-73.4, 13-256-73.5, 13-256-73.6, 13-256-73.7, 13-256-73.8, 13-256-73.9, 13-256-73.10, 13-256-73.11, 13-256-73.12 are added.



1. Section 13-230-8, Hawaii Administrative Rules, is amended by adding new definitions and amending the definitions of "dormant vessel" and "stay aboard" or "staying aboard" to read as follows:

~~"Along catwalk" means the mooring of a vessel to any structure or platform, floating or fixed, within a state small boat harbor, including a pier, dock, wharf, and bulkhead, that provides occupants of a moored vessel with access to the vessel and shore irregardless of whether one end of the vessel is moored to a buoy or other type of mooring.~~

~~"Bow-stern mooring" means the mooring of a vessel where both the bow and stern of the vessel are moored to a device which is an anchor, concrete block or similar device placed or dropped on submerged land and having a rope or chain attached to a buoy to which the vessel is attached.~~

"Dormant vessel" means a vessel or contrivance, other than a houseboat, that has [been determined by the department not to exhibit any activity on board or movement from its assigned berth or mooring] not been navigated from or vacated an assigned mooring or facility within or offshore of a state small boat harbor at least once within a ninety-day period, or cannot be made [ready for sea] seaworthy upon thirty days notice to the owner.

"Stay aboard" or "staying aboard" means a person or persons aboard any vessel [for a period of two hours or more] between the hours of [12:00 midnite] 10:00 P.M. and 6:00 A.M., while the vessel is moored in a state small boat harbor or offshore mooring area.

"Temporary mooring" means mooring pursuant to a temporary use permit or mooring without a use permit. Calculation of the allowable period for temporary

mooring shall include cumulative days moored with and without a permit."

[Eff 2/24/94; am 4/27/02; am]
(Auth: HRS §§200-2, 200-4, 200-10, 200-22, 200-24)
(Imp: HRS §§200-2, 200-4, 200-10, 200-22, 200-24)

2. Section 13-230-21, Hawaii Administrative Rules, is amended by adding a new definition to read as follows:

"Personal partner" is an individual considered to be a "personal partner" of the principal habitation permittee who is not a relative by biology or adoption to the principal habitation permittee. While living together on the vessel, the principal habitation permittee and personal partner shall not have a landlord-tenant relationship." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

3. Section 13-230-27, Hawaii Administrative Rules, is amended to read as follows:

"Section 13-230-27 Permittee required to report change of residence. A resident permittee who subsequently takes up residence outside of the State and continues to moor the permittee's vessel in a state small boat harbor shall advise the department in writing within seven days of the permittee's change of residence. In such a case, nonresident fees and charges shall be payable commencing at the first residence determination date following the change of residence. A permittee who intends to assume residence outside of the state or relocate to another island yet retain a permitted vessel and assigned mooring shall cause all applicable harbor use permits to be revised to identify the individual that agrees to assume the vessel owner's obligations under the use permit and these rules during the period of the permittee's absence. This individual shall reside on

the same island that the vessel is moored." [Eff
2/24/1994; am] (Auth:
HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4,
200-10)

4. Section 13-231-4, Hawaii Administrative Rules, is amended by amending subsection (b) to read as follows:

"§13-231-4 Use permits; part-time or intermittent occupancy.

[(b) No use permit shall be issued authorizing temporary mooring of same vessel within the same small boat harbor or offshore mooring area for a cumulative period of more than ninety days in the same calendar year, provided that for Ala Wai small boat harbor the cumulative period shall not exceed one hundred and twenty days if space is available at the designated transient mooring area and the temporary mooring permit is issued in accordance with section 13-231-85.] (b) Temporary mooring of a vessel within the same small boat harbor or offshore mooring area shall not exceed a cumulative period of more than one hundred and twenty days in the same calendar year per vessel, except as provided in section 13-256-73.11 for commercial vessels authorized for use at Heeia Kea small boat harbor. Temporary mooring permits shall be issued in accordance with section 13-231-85." [Eff
2/24/94; am] (Auth: HRS
§§200-2, 200-3, 200-4, 200-6) (Imp: HRS §§200-2,
200-3, 200-4, 200-6)

5. Section 13-231-5, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-5 Period of validity and renewal of use permit. (a) The department may issue or renew a use permit for any period up to, but not exceeding one year. Upon expiration of the period stated therein, the permit and all rights of the permittee thereunder shall automatically terminate. No use permit shall be renewed unless all the conditions or covenants of the

original issuance, including the requirement of prompt monthly payment of charges in advance have been met and the rules governing small boat harbors of the department of land and natural resources have been fully complied with.

(b) If a permittee utilizing any property or facility fails to renew a regular mooring permit on or before the date on which it expires, that person may petition the board of land and natural resources (board) and request reissuance of the regular mooring permit on the sole basis of exceptional, unforeseen circumstances that were beyond that person's control, for example, unexpected hospitalization due to an accident or illness or the occurrence of a natural disaster. The petition shall be made within fifteen days from the expiration date of the regular mooring permit. The person may be represented by an attorney or a designee indicated by an affidavit. The person shall pay mooring without a permit fees until the board decision is made or until the vessel leaves the mooring if the board denies reissuance. The board's decision is final and the person has no right to a contested case hearing. Should the board decide that reissuance of the regular mooring permit is warranted, the person shall pay a one-time penalty fee equal to two times the mooring fee as well as all other applicable fees. Impoundment of the vessel shall be stayed only until the board makes a decision." [Eff 2/24/94; am] (Auth: HRS §200-10)
(Imp: HRS §200-10)

6. Section 13-231-6, Hawaii Administrative Rules, is amended to read as follows:

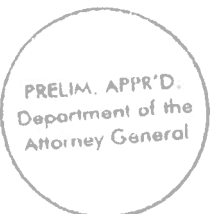
"§13-231-6 Revocation of use permit. (a) If after notice and lapse of a reasonable period of time, the permittee fails to remedy any breach of the duties, covenants or conditions of the permit or to desist from violating or permitting violation of these rules, the department may revoke the permittee's use permit.

(b) In addition to subsection (a), the department may revoke a use permit for a deliberate misstatement or willful failure to disclose any material fact in an application for a vessel number, documentation, registration of a vessel, or any of the use permits specified in section 13-231-3.

(c) A permittee's failure to pay all fees owed to the department within thirty days of the date payment is due shall result in suspension of the right to conduct business under the commercial use permit until all past due fees are paid in full. Each and every notification of default shall be sent by certified mail, return receipt requested to the last known address of the permittee. Any delinquency beyond the due date, even within the thirty days, may cause the commercial use permit to be revoked." [Eff 2/24/94; am] (Auth: HRS §200-10) (Imp: HRS §200-10)

7. Section 13-231-13, Hawaii Administrative Rules, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding the requirements of subsection (a), the department may permit a one-time change in ownership of the permittee's vessel from personal ownership to corporate or other business ownership, provided that the permittee holds a valid commercial permit or is engaged in commercial fishing as a primary means of livelihood and notifies the department in writing of an intended change in ownership. No corporation or other business entity shall be eligible for the initial issuance of a mooring permit at a state small boat harbor unless the entity is eligible for a then available commercial use permit. The transfer of all small boat harbor use permits from the individual to the new corporation or other business entity shall be completed within one year of the date of receipt of the notification of intended change of ownership. The following



requirements and conditions shall apply to the foregoing change in ownership:

- (1) The ownership of any corporation or other business entity formed under the provisions of this subsection shall be limited to the permittee, any co-owners of the vessel and the members of the immediate families of the permittee and co-owners;
- (2) The permittee shall apply for the reissuance of the commercial permit, mooring permit and any other small boat harbor use permits in the name of the corporation or other business entity in accordance with the application procedures established by this chapter. Each application shall be accompanied by a copy of the charter of incorporation or other evidence acceptable to the department that the new corporation or other business entity is properly registered with the department of commerce and consumer affairs and is licensed to do business in the State; and
- (3) Each application for change of ownership shall be reviewed by the department in accordance with the provisions of section 13-231-82."

[Eff 2/24/94; am] (Auth: HRS §§200-2, 200-10) (Imp: §§200-2, 200-9, 200-10)

8. Section 13-231-22, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-22 Staying aboard transient or visiting vessels. A stay aboard permit authorizing persons to stay aboard a transient or visiting vessel moored in a small boat harbor or offshore mooring area may be issued to the owner, master, crew, and passengers for a period or periods not to exceed [ninety] one hundred twenty nights in a calendar year[, except that for Ala Wai small boat harbor the period shall not exceed one hundred twenty nights in a calendar year.]" [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-9) (Imp: HRS §§200-2, 200-9, 200-10)

9. Section 13-231-25, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-25 Exchange of berths. A permittee holding a regular mooring permit to moor in the small boat harbor may, upon approval by the department, exchange the permittee's berth with another permittee holding a regular mooring permit to moor in the same small boat harbor if:

- (1) The vessels are suitable for the berths as determined by the factors enumerated in section 13-231-5;
- (2) There is mutual agreement between the permittees; and
- (3) The berths to be exchanged are of the same characteristics, (e.g. category, length, size, configuration)."

[Eff 2/24/94; am] (Auth: HRS §§200-2, 200-10) (Imp: HRS §§200-2, 200-9, 200-10)

10. Section 13-231-26, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-26 Use of a vessel as a place of principal habitation. (a) A vessel owner who holds a valid regular mooring permit issued by the department authorizing the owner to moor the owner's vessel in Ala Wai or Keehi [boat] Small Boat Harbors may use that vessel as a place of principal habitation if the owner has applied for and secured:

(1) A principal habitation permit [;and] issued by the department in accordance with these rules, provided that the owner and the vessel meets the requirements set forth in these rules.

[(2) A harbor resident permit issued by the department in accordance with these rules, provided that the owner and the vessel meet the requirements set forth in these rules.]

(b) A permit authorizing the use of a vessel as a place of principal habitation shall not be issued if the vessel is owned by a corporation.

(c) No person shall be issued a permit authorizing the use of any vessel as a place of principal habitation while the vessel is moored at the following locations in Ala Wai Small Boat Harbor:

- (1) Berths 23 through 79;

- (2) The area leased to the Waikiki Yacht Club;
- (3) The area leased as a marine fueling facility; and
- (4) [The area leased to Ala Wai Marine, Ltd.] A haul-out facility[; and].
- [(5) The moorings adjacent to the breakwater.]

(d) A vessel owner may utilize the owner's vessel as a place of principal habitation while moored in the area leased to the Hawaii Yacht Club if the owner has applied for and holds a valid principal habitation permit [and harbor resident permit] issued by the department in accordance with these rules.

(e) Only the vessel owner, co-owner, the spouse or, in the alternative, one personal partner of each, and their legal dependents may be issued a [harbor resident] principal habitation permit. A "personal partner" is an individual considered to be a "significant other" of the principal habitation permittee who is not a relative by biology or adoption of the principal habitation permittee. While living together on the vessel, the principal habitation permittee and personal partner shall not have a landlord-tenant relationship. The department shall retain the right to limit the total number of people allowed to live on a particular vessel based on reasonable health, safety, security, or environmental concerns for persons on the vessel, other permittees at the harbor, public use of the harbor, or the harbor itself, and may deny the issuance of a [harbor resident] principal habitation permit if such issuance would exceed the limit determined by the department to be appropriate.

(f) The owners of no more than one hundred twenty-nine vessels moored at Ala Wai Small Boat Harbor shall be issued permits to use their vessels as a place of principal habitation. The owners of no more than thirty-five vessels moored at Keehi Small Boat Harbor [shall] may be issued such permits. Any vessel used as a place of principal habitation that is temporarily absent from its mooring[s] shall continue to be considered as one of the vessels being used as a place of principal habitation if the owner retains a principal habitation permit as provided in section 13-231-11." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-10) (Imp: HRS §§200-2, 200-9, 200-10)

11. Section 13-231-27, Hawaii Administrative Rules, is amended by amending subsection (e) to read as follows:

"(e) Priority in the allocation of principal habitation permits. When the total number of vessels authorized by the department to be used as the principal habitation of the owners at Ala Wai or Keehi [boat harbor] Small Boat Harbors is less than the maximum number of vessels authorized to be so used pursuant to the provisions of section 13-231-26(f), the department [shall] may offer a principal habitation permit to the senior applicant eligible to receive such a permit." [Eff 2/24/94; am]
(Auth: HRS §§200-2, 200-10) (Imp: HRS §§200-2, 200-9, 200-10)

12. Section 13-231-28, Hawaii Administrative Rules, is amended to read as follows:

§13-231-28 Staying aboard vessels moored at Ala Wai or Keehi [boat harbor] Small Boat Harbor. (a) Staying aboard a vessel moored at Ala Wai or Keehi [boat harbor] Small Boat Harbor is prohibited except that:

- (1) Owners holding a valid regular mooring permit, the spouse or personal partner of each, their legal dependents, and their nonpaying guests, when in the company of the owner, may stay aboard the vessel without a use permit upon written notification to the department [on or] before the date of stay; provided that the period does not exceed any three nights in a week and a total of any [ninety] one hundred twenty nights in a calendar year, including [vessel use] vessels used as a vacation site;
- (2) Staying aboard a vessel in excess of any three nights in a week may be permitted when done in accordance with a valid:
 - (A) Stay aboard permit issued pursuant to section 13-231-22 (staying aboard transient or visiting vessels);
 - (B) Stay aboard permit issued pursuant to section 13-231-29 (vessel used as a vacation site);

(C) Stay aboard permit issued to a vessel owner holding a valid principal habitation [and harbor resident] permit authorizing a nonpaying bona fide guest to stay aboard the vessel in the company of the owner for a period not to exceed any thirty days in a calendar year.[]; or

(D) Harbor resident permit issued in accordance with section 13-231-26 (use of vessel as a place of principal habitation).]

(b) When staying aboard in accordance with subsection (a)(1), and the stay is extended past the third day, the entire period of stay will be counted against time used as a vacation site in accordance with section 13-231-29.

(c) Each harbor resident or other person authorized by the department to stay aboard a vessel in a small boat harbor in accordance with this chapter, except for those under the age of six, may secure one shower facility key. Prior to receiving the shower key, the person shall deposit with the State the amount specified in section 13-234-32. No person shall be permitted to replace a shower facility key more than two times." [Eff 2/24/94; am]
(Auth: HRS §§200-2, 200-10) (Imp: HRS §§200-2, 200-9)

13. Section 13-231-29, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-29 Vessel used as a vacation site. (a) Staying aboard a vessel moored in Ala Wai or Keehi small boat harbor during a vacation is authorized but limited to owners holding valid regular mooring permits authorizing them to moor their vessels in the small boat harbor, the spouse or personal partner of each, their legal dependents, and nonpaying guests when accompanied by the owner, provided that:

- (1) The aggregate period of the stay is not more than thirty days in a calendar year;
- (2) The vessel owner secures a vacation permit and a stay-aboard permit for each individual vacationer;

- (3) The vessel and its occupants comply with the sanitation, vessel equipment, and all other requirements set forth under this chapter; and
 - (4) The vessel owner provides evidence that the owner maintains a bona fide shoreside residence.
- (b) No vacation permit shall be issued for a vessel registered or documented as being owned by a corporation." [Eff 2/24/94; am]
(Auth: HRS §§200-2, 200-10) (Imp: HRS §§200-2, 200-9, 200-10)

14. Section 13-231-45, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-45 Vessel inspections. (a) "Approved marine surveyor" as used in this section means a person who has been approved by the chairperson to inspect a vessel for an owner seeking a permit to moor a vessel in a small boat harbor in accordance with subsections (h) and (i). "Approved vessel inspector" as used in this section means an employee of the department who has been designated by the chairperson to inspect a vessel for compliance with criteria necessary to obtain a mooring permit. An inspection conducted by an approved vessel inspector is deemed to meet the requirements of the marine inspection required by section 200-13, Hawaii Revised Statutes, and [shall] may be valid for a period of [only one] two years.

(b) Before a regular mooring permit is issued or renewed, the vessel owner shall complete a satisfactory vessel inspection conducted by an approved vessel inspector, or present a certificate not more than two years old to the department at the owner's own expense, signed by an approved marine surveyor certifying the surveyor has inspected the vessel and considers it to fulfill the minimum requirements described in the exhibit at the end of this chapter entitled "vessel inspection report". The department reserves the right to inspect any vessel to ensure that any deficiencies or omissions noted on a marine [survey] inspection have been corrected prior to issuing a mooring permit. All vessel owners shall also demonstrate to the department that their vessel is capable of navigating beyond the confines of the

harbor and returning under its own power to its assigned mooring/berth prior to the mooring permit being issued.

(c) Commercial vessels carrying more than six passengers for hire are exempted from the provisions of subsection (b) when evidence of a current Coast Guard certificate of inspection is presented.

(d) Owners of vessels failing the vessel inspection shall have thirty days to correct deficiencies and complete the inspection. Failure to do so will preclude re-issuance of the use permit or be cause for rejection of the application for mooring.

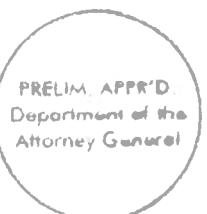
(e) The department may extend the deadline for correction of deficiencies prescribed in subsection (d) if the vessel owner presents conclusive evidence to the department that the granting of additional time is reasonable and essential due to the necessity of replacing essential parts and gear and that reasonable and diligent efforts by the owner to secure the items necessary to repair the vessel or replacement of parts is demonstrated, and further provided that any extension of time for compliance shall not exceed sixty days.

(f) Owners of vessels that fail the vessel inspection may contest the decision at an arbitration board as established in section 200-13, Hawaii Revised Statutes. The costs of the arbitration shall be borne by the vessel owner if it is determined that the vessel does not meet the minimum requirements to moor in a small boat harbor in accordance with these rules. No additional time allowance for the correction of deficiencies will be granted following arbitration and the vessel shall be removed from the harbor. The costs of the arbitration shall be borne by the State if it is determined that the vessel does meet minimum requirements.

(g) The fee for a vessel inspection conducted by the department, pursuant to this section shall be as prescribed in section 13-234-29.

(h) A person who desires to become an approved marine surveyor shall apply to the department upon a form furnished by the department and pay the application fee prescribed in section 13-234-30.

(i) An application to become an approved marine surveyor shall not be accepted by the department unless the applicant is engaged wholly or partly in the business of performing marine surveys for gain or compensation and the person's surveys are acceptable



to at least one insurance company or surety company authorized to do business in the State[.], and is a member of a nationally recognized marine surveyor organization as approved by the department.

(j) An approved marine surveyor permit shall be valid for a period of three years from date of issuance. The department reserves the right to revoke any approved marine surveyor permit at any time prior to the expiration of the permit.

(k) A satisfactory vessel inspection shall consist of the following:

- (1) Presentation of the vessel to be inspected at a place designated by the harbor agent.
- (2) A demonstration that the vessel is capable of being regularly navigated beyond the confines of the harbor or mooring area and maneuvering into and out of the assigned berth;
- (3) A finding that the vessel and all systems are in good material and operating condition;
- (4) A finding that the requirements described in the exhibit at the end of this chapter entitled "vessel inspection report" are met;

and Applicable standards published by the U.S. Coast Guard and the American Boat and Yacht Council, Inc. (ABYC) shall be used in conducting the vessel inspection, and are adopted and incorporated herein by reference.

(l) A marine survey shall be required for any vessel which has undergone any substantial reconstruction, alteration or modification of the original vessel design, certifying that such reconstruction, alteration or modification does not materially affect the vessel's stability or maneuverability, and the existing power plant is in good operating condition and meets the minimum power requirement necessary for safe navigation beyond the confines of the small boat harbor or offshore mooring area in which it is moored. A certificate of protection and indemnity insurance for the vessel, in an amount of not less than \$100,000, naming the State as an additional insured, shall be required in addition to the marine survey.

(m) No modification or alteration to a houseboat moored in Ke'ehi Lagoon which changes the length, beam or size of silhouette area from that which existed at the time of issuance of the initial mooring permit

shall be allowed without prior approval of the department, provided that routine maintenance and repairs for safety, security and structural integrity shall be allowed." [Eff 2/24/94; am]
(Auth: HRS §§200-1, 200-2) (Imp: HRS §§200-1, 200-2)

15. Section 13-231-57, Hawaii Administrative Rules, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding subsection (b), the department may authorize the owner of a transient or visiting commercial vessel engaged in a trade or business elsewhere to:

- (1) Carry passengers for hire in the above listed small boat harbors if the vessel will be so engaged as a registered participant in a bona fide fishing tournament;
- (2) While on cruise, off-load and load passengers in the above listed small boat harbors if those passengers are embarked elsewhere or bound for another destination; provided that a reservation for a berth was made in advance and space is available; or
- (3) Embark and disembark passengers occasionally and infrequently, not exceeding [eight] twenty-four times in a calendar year on a special charter when approved not less than seven days in advance of the voyage."

[Eff 2/24/94; am] (Auth: HRS §200-2, 200-4) (Imp: HRS §§200-2, 200-4)

16. Section 13-231-58, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-58 Limitations on the number of commercial use permits for vessels assigned permanent moorings. (a) the total number of valid commercial permits which may be issued for vessels assigned permanent mooring in Manele small boat harbor shall not exceed ten percent of the available berths.

(b) The total number of valid commercial permits which may be issued for vessels assigned permanent mooring in the following small boat harbors are:

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<u>Harbor</u>	<u>Number of commercial permits</u>
(1) Ala Wai	0
(2) Keehi	0
(3) Heeia Kea	[7]as provided for in <u>section 13-256-73.1</u>
(4) Haleiwa	[8]20
(5) Waianae	15
(6) Nawiliwili	10
(7) Port Allen	12
(8) Kikiaola	3
(9) Kukuiula	4
(10) Hana	2
(11) Kaunakakai	9
(12) Lahaina	[30]32
(13) Maalaea	29
(14) Honokohau	120
(15) Kawaihae (north)	4
(16) Kawaihae (south)	[14]10
(17) Kailua-Kona <u>Makai</u>	3
(18) [Keauhou] <u>Kailua-Kona Offshore</u>	[6]8
(19) Wailoa	[20]10
(20) Reed's Bay	3
(21) <u>Keauhou</u>	6"

[Eff 2/24/94; am] (Auth:
HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3,
200-4)

17. Section 13-231-59, Hawaii Administrative Rules,
is amended to read as follows:

"§13-231-59 Limitations on commercial permits
for vessels moored elsewhere. (a) The department
recognizes that it may be necessary or desirable to
operate a commercial vessel from more than one small
boat harbor, and that lack of mooring facilities in
certain areas has required numerous vessels to
establish permanent moorings offshore, outside of the
small boat harbors of intended use. Therefore,
notwithstanding section 13-231-57, the department may
issue a limited number of commercial permits to owners
of vessels moored elsewhere for use of small boat

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harbor facilities. The number and categories of those commercial permits shall be based on the physical capacity of the small boat harbor facilities to accommodate the additional volume of activity expected to be generated by the additional permits, and shall be determined by the department on a case-by-case basis for each small boat harbor, subject to the limitations listed in subsection (b).

(b) No commercial vessel moored elsewhere shall use any small boat harbor facilities for commercial purposes unless the owner of the commercial vessel moored elsewhere has been issued a commercial permit for that vessel, or the vessel is exempt from commercial use permit requirements under the provisions of subsection 13-231-57(c) or as otherwise permitted by the department. "Commercial purposes" as used in this subsection includes the staging, loading and discharge of passengers or supplies at a state boating facility for further transport to a vessel's offshore location by means of a water taxi or any other vessel, or provisioning a vessel before or after a voyage involving the carriage of passengers for hire.

(c) The number of commercial use permits for vessels moored elsewhere which may be issued for each small boat harbor shall be as follows:

- (1) Maalaea [harbor]Small Boat Harbor: twenty;
- (2) Lahaina [harbor]Small Boat Harbor: sixteen;
- (3) Manele [and Heeia-Kea harbors]Small Boat Harbor: six [each, except that for Heeia-Kea, commercial permits shall be limited to vessels having passenger categories I and II as listed in subsection (d), and may include the use of an auxiliary platform in an offshore operating area for which the owner has been issued a permit by the department; provided that there shall be no increase in the level of commercial activity by the permittee, as of June 19, 1990, the effective date of Act 208, SLH 1990]; and

- (4) All other small boat harbors except for Heeia Kea Small Boat Harbor, which is subject to section 13-256-73.1: no limit. [These limits notwithstanding, all valid commercial permits for vessels moored elsewhere in effect on the effective date of these rules shall be permitted to remain in effect and be eligible for reissuance provided that all other provisions of these rules are met.]

(d) Each commercial use permit issued for a vessel moored elsewhere shall be assigned one of the following categories, depending on the passenger-carrying capacity of the vessel named in the permit:

- | | | |
|------------------|---|--|
| (1) Category I | - | one to twenty-four passengers |
| (2) Category II | - | twenty-five to forty-nine passengers |
| (3) Category III | - | fifty to seventy-four passengers |
| (4) Category IV | - | seventy-five to ninety-nine passengers |
| (5) Category V | - | one hundred to one hundred forty-nine passengers |

(e) No commercial use permit for vessels moored elsewhere shall be issued for any vessel with a passenger-carrying capacity in excess of one hundred forty-nine, and no existing commercial permit issued for a vessel moored elsewhere shall be issued a permit whenever the owner seeks to increase the passenger-carrying capacity above the limit of the category to which the [original] current permit was assigned.

(f) The department reserves the right to impose further restrictions on the operation of commercial vessels moored elsewhere, on a case-by-case basis, as may be necessary to reduce congestion and achieve more efficient use of small boat harbor facilities. Restrictions may include designation of docking times for passenger loading and unloading or fueling, and parking restrictions for patron and delivery vehicles. Additional restrictions shall be implemented by addenda to existing commercial permits issued by the department. Refusal of a permittee to accept or comply with additional restrictions implemented in this manner shall be cause for immediate termination of the commercial use permit.

(g) Use of any vessel in violation of this section may be cause for termination of all small boat harbor use permits issued to the owner by the department." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

18. Section 13-231-61, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-61 Reissuance of commercial use permits.

(a) The department may reissue a commercial use permit provided that:

(1) The gross receipts during the twelve-month period under the commercial use permit for which the application for reissuance has been submitted, equals or exceeds the following minimums as applicable:

- | | |
|--|-----------|
| (A) Vessel used for
bare boat(demise)
Charters and charter
Sail boats | \$7,000 |
| (B) Vessels registered
by the state or
documented by the
U.S. Coast Guard to
carry six passengers or
less, Including
charter fishing boats | \$15,000 |
| (C) Vessels certified by
the U.S. Coast Guard
to carry seven to
twenty-five passengers | \$45,000 |
| (D) Vessels certified by the
U.S. Coast Guard to
carry twenty-five to
forty-nine passengers | \$85,000 |
| (E) Vessels certified by the
U.S. Coast Guard to
carry fifty to ninety-
nine passengers | \$125,000 |

- (F) Vessels certified by the U.S. Coast Guard to carry more than ninety-nine passengers. \$250,000
- (G) Vessels engaged in another trade or business not delineated and governed by an appropriate paragraph above \$7,000[;]
- (H) Water Sports Equipment Rentals \$7,000 ;
or
- (2) The permittee applies to the department in writing for reissuance of the permittee's commercial use permit and concurrently presents evidence that any failure to generate gross receipts from the operation of the permittee's vessel as prescribed in this subsection was due to:
 - (A) The sinking, loss, or destruction of the permittee's vessel;
 - (B) The permittee's vessel being inoperative in excess of sixty days due to disability of the permittee;
 - (C) The permittee's vessel was rendered inoperative in excess of sixty days due to damage to the vessel, or due to the necessity of replacing essential parts and gear, provided that reasonable and diligent efforts by the permittee to secure such items necessary to repair the vessel or replacement of parts is demonstrated or
 - (D) Where conditions and circumstances are demonstrated wherein a reissuance of the permittee's commercial use permit would be fair and warranted, and the application for reissuance is approved by the department; and

- (3) All fees and charges due and payable to the department have been paid and no violations are outstanding.
- (b) No commercial use permit shall be issued to any permittee whose commercial use permit has been terminated for cause, provided that the permittee may apply for a new commercial use permit after one year has expired from date of termination of the commercial use permit, all fees and charges owing the State have been paid, and the permittee is in compliance with federal and state laws.
- (c) A corporation must have been in continuous commercial operation as evidenced by the submission of monthly reports of gross receipts for a minimum of twelve months in order to retain use permits upon the transfer of any interest in that corporation."

[Eff2/24/94; am] (Auth: HRS
SS200-2, 200-3, 200-4, 200-10) (Imp: HRS SS200-2,
200-3, 200-4, 200-10)

19. Section 13-231-67, Hawaii Administrative Rules, is amended to read as follows:

"§13-231-67 Limitation on commercial use permits issued for the use of state boat launching ramps. (a) State boat launching ramps were constructed for the primary purpose of providing access to the waters of the State for trailered boats. Therefore, commercial use permits issued for the use of state boat launching facilities shall be restricted to boats that are regularly launched and recovered from boat launching ramps and used in the course of doing business. A commercial use permit shall be required for any trailered vessel which is rented off-site, but

launches or recovers from a state boat launching facility. The owner of a trailered vessel shall be required to obtain a commercial use permit and comply with all other rules of the department governing commercial vessel activities. Notwithstanding the limitation of the number of commercial use permits which may be issued for launching ramps in subsections (d)(3) through (d)(9) below, the owner may apply for and may be issued a commercial use permit for the number of vessels owned and registered in furtherance of its commercial use by the business on the effective date of these rules. Vessels registered to boat dealers and manufacturers and used for the purpose of conducting sea trials and instruction of prospective owners shall be exempt from commercial use permit requirements.

(b) No commercial use permits for the use of state boat launching ramps shall be issued for the purpose of embarking or disembarking passengers by small craft or lighter from a vessel moored offshore.

(c) A commercial use permit issued for the use of a state boat launching ramp shall also be valid for all other state boat ramps on the same island at which commercial activities are permitted except those listed in subsection (d); provided that the permittee shall indicate which launching ramp is expected to be the location of primary use and the fees derived from [two] three percent of gross revenues shall be paid to that account. No commercial use permit shall be issued for a launching ramp located on an island other than the place of business of the permittee.

(d) The maximum number of commercial use permits which may be issued for the use of the following launching ramps are:

- | | |
|---------------|---------|
| (1) Ala Wai | - none |
| (2) Keehi | - none |
| (3) Heeia Kea | [- 7]as |

provided for in
section 13-256-73.1

(4) Maunalua Bay	- 5
(5) Mala	- 15
(6) Kihei	- 15
(7) Manele	- 3
(8) Kaunakakai	- 5
(9) Kukuiula	- 6
(10) [All others] <u>Lahaina</u>	- none
(11) <u>Maalaea</u>	- none
(12) <u>Kikiaola</u>	- 10
(13) <u>Nawiliwili</u>	- 5
(14) <u>Port Allen</u>	- 9
(15) <u>Waikaea</u>	- 5
(16) <u>Honokohau</u>	- 35
(17) <u>Kawaihae (N)</u>	- 5
(18) <u>Kawaihae (S)</u>	- 10
(19) <u>Puako</u>	- 4
(20) <u>Pohoiki</u>	- 4
(21) <u>Wailoa</u>	- 10
(22) <u>Kailua Pier</u>	- 6
(23) <u>Keauhou</u>	- 11
(24) <u>Napoopoo</u> by concession agreement only	
(25) <u>All others</u>	- no limit.

(e) The maximum number of commercial use permits which may be issued for the use of any launch ramp is two (2) per business entity or sole proprietor registered to do business in the state." [Eff 2/24/94;

am] (Auth: HRS
 §§200-2, 200-3, 200-4, 200-10, 200-39) (Imp: HRS
 §§220-2, 200-3, 200-4, 200-10, 200-39)

20. Section 13-233-8, Hawaii Administrative Rules, is amended to read as follows:

"§13-233-8 Removal of vehicles. The department or its authorized representative, shall have the authority to detain, tow, move, or cause to be moved to an impounding area, at the owner's risk and expense



and without liability for any damage which may result, any motor vehicle:

- (1) For nonpayment of parking fees and charges when the vehicle is parked in parking areas operated by the department or authorized representative in a small boat harbor;
- (2) Which has been parked continuously anywhere in a vehicular parking area operated by the department or authorized representative in a small boat harbor for a period exceeding the posted time limits, except when prior arrangements have been made [therefor] therefore;
- (3) When the position or location of the vehicle in a small boat harbor creates a nuisance or a hazard; provided, that any detention, towing, or moving, done or caused to be done by the department or authorized representative, of any vehicle legally parked at a small boat harbor, shall not be at the owner's risk and expense;
- (4) When parked in violation of section 13-233-6; and
- (5) When any parked vehicle is used [in any way for commercial or business use for] to transact, promote or facilitate commercial activity at a state small boat harbor including storage of equipment [or other business-related activity] without a valid permit issued by the department or authorized representative."

[Eff 2/24/94; am] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

21. Section 13-233-27, Hawaii Administrative Rules, is amended to read as follows:

"§13-233-27 Charges for enclosure or obstruction of paid parking stall, incidental to construction, etc. (a) Before any person, other than any governmental agency, shall enclose, obstruct, or cause to be enclosed or obstructed any parking stall or portion thereof, incidental to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure, or for other reasons, that person shall obtain a permit from the department or authorized representative and pay to the department or authorized representative a sum calculated at the rate currently being charged for each such parking stall for each day or fraction thereof, during which the stall shall be so enclosed or obstructed.

(b) No permit to enclose or obstruct a parking stall shall be issued to any person to whom the foregoing provision is applicable until the person shall have made a deposit of the calculated sum, based on the estimated number of days during which the parking stall shall be so enclosed or obstructed. The person shall notify the department or authorized representative immediately upon termination of the enclosure or obstruction." [Eff 2/24/94; am]
(Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

22. Section 13-233-28, Hawaii Administrative Rules, is amended to read as follows:

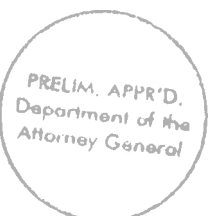
"§13-233-28 Harbor [tenants] permittees - parking permits. Notwithstanding any other provisions of this subchapter to the contrary, a person may park a motor vehicle in a parking stall in a pay-for-parking zone, in excess of the time limit and without payment for the parking stall, if the person has been issued a parking permit and displays a valid parking [sticker (decals)] decal or other approved permit method issued to that person by the department, [on the left hand side of the rear bumper or as near thereto as the configuration of the motor vehicle permits,] or has been issued a temporary parking permit and displays [this temporary] the parking permit in or on the vehicle so as to be clearly visible [from the

outside]." [Eff 2/24/94; am]
(Auth: HRS §§200-2, 200-4)(Imp: HRS §§200-2, 200-4)

23. Section 13-233-29, Hawaii Administrative Rules, is amended to read as follows:

"§13-233-29 Eligibility for parking permits; fee per vehicle. (a) Persons eligible for the parking permits described in section 13-233-28 and the fees for the permits are as follows:

<u>Eligible persons</u>	<u>Fees Per Vehicle</u>
(1) An owner holding a valid Use permit (permittee) authorizing the mooring of the owner's vessel at the small boat harbor, and any co-owner of the vessel.	\$25 per month
(2) The [master,] spouse <u>or personal partner</u> of each owner, and their legal dependents 18 years of age or older.	\$25 per month
(3) An owner or co-owner holding a valid use permit authorizing the mooring of the owner's vessel at the small boat harbor may secure a temporary parking permit, for use by bona fide guests accompanying the owner on board the vessel on a voyage outside the confines of the small boat harbor.	\$10 for each 24-hour period or fraction thereof
(4) An owner or employee of a firm, business, or	\$90 per month



organization operating under
a lease or other agreement
authorizing the owner,
employee, firm, business,
or organization to engage in
a business or commercial
activity at the small boat
harbor.

- (5) Other non-boating related not less
person(s) parking in any paid than \$100
parking stalls. per month

(b) Fees for permits issued after the first
month of a calendar quarter shall be prorated on a
monthly basis.

(c) [Except as provided in subsection (a)(2),
not] Not more than one parking permit shall be issued
to a person eligible for a parking permit. [Eff
2/24/94;am and comp APR 05, 2008; am]
(Auth: HRS §§200-2, 200-4)(Imp: HRS §§200-2, 200-4)

24. Section 13-233-30, Hawaii Administrative Rules,
is amended to read as follows:

"§13-233-30 Replacement of mutilated
[sticker] decal or other approved permit method. The
eligible holder of a parking [sticker] decal or other
approved permit method that becomes mutilated or
illegible shall apply for and may be issued a
replacement [sticker] decal if the mutilated or
illegible [sticker] decal is surrendered to the
department or authorized representative. A fee of \$15
shall be paid prior to the issuance of a replacement
[sticker] decal." [Eff 2/24/94; am and comp APR 05,
2008;am] (Auth: HRS §§200-2, 200-4)
(Imp: HRS §§200-2, 200-4)

25. Section 13-233-31, Hawaii Administrative Rules,
is repealed:

[§13-233-31 Transfer of permits. The holder of a parking sticker may upon surrender of a parking sticker apply for and be issued another parking sticker to be applied to another vehicle owned by the holder. A fee of \$15 payable in advance shall be paid prior to the issuance of a new sticker.] [Eff 2/24/94] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)]

26. Section 13-233-32, Hawaii Administrative Rules, is amended to read as follows:

"§13-233-32 Cancellation of permits. The holder of a valid parking permit who disposes of the vehicle for which the permit was issued or who otherwise desires to cancel a parking permit may obtain a credit or refund as appropriate for any remaining unexpired month or months, upon surrender of the parking [sticker] decals or other approved permit methods to the department or authorized representative. No credit or refund shall be given for portions of a month." [Eff 2/24/94; comp APR 05, 2008; am] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

27. Section 13-233-33, Hawaii Administrative Rules, is amended to read as follows:

"§13-233-33 Revocation of parking permits. The department reserves the right to further restrict the issuance of parking permits to those who observe the small boat harbors rules and make full and timely payments of fees and charges. A parking permit may be revoked as provided in section 13-231-6. Upon revocation the permittee shall surrender the parking [sticker] decals or other approved permit methods issued by the department or authorized representative. [Eff 2/24/94; comp apr 05, 2008; am] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

28. Section 13-233-34, Hawaii Administrative Rules, is amended to read as follows:

"§13-233-34 Violations and penalties. (a) It shall be a violation of this part for any person:

- (1) For failure to pay the posted fees.
- (2) To park, stop, or stand any vehicle across any line or marking of a paid parking stall or in such position that the vehicle shall not be entirely within the stall designated by the lines or markings.
- (3) To park, stop, or stand a towing vehicle with a boat trailer attached in any non-designated vehicle/trailer paid parking stall.
- (4) To permit another person not entitled thereto, to use or have possession of a parking [sticker] decal or other approved permit method.
- (5) To alter, forge, counterfeit, or imitate a parking [sticker] decal or other approved permit method.
- (6) To possess or use a parking [sticker] decal or other approved permit method, knowing it to have been altered, forged, counterfeited, or imitated.
- (7) To avoid or attempt to avoid compliance with this section by affixing to a vehicle, a parking [sticker] decal or other approved permit method not authorized by the department.
- (8) To enclose, obstruct, or cause to be enclosed or obstructed any paid parking stall or portion thereof unless a permit has been obtained from the department as required in section 13-233-27.
- (9) To deface, injure, tamper with, open or willfully break, destroy, or impair the usefulness of any parking pay station installed under the provisions of this part.
- (10) To disregard any official direction, instruction, or restriction indicated by or

on official signs posted in a paid parking zone.

(b) A person who has violated this section may be fined as provided in section 13-230-4. [Eff 2/24/94; am and comp APR 05, 2008; am]
(Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

29. Section 13-234-1, Hawaii Administrative Rules, is amended by amending subsection (b) to read as follows:

"(b) Nothing contained in this subchapter shall be construed to limit the authority and power of the department to waive [any fees] or reduce any late charges and interest that may be incurred by a permittee, or to assess any reasonable fees and charges in addition to those specifically provided in this subchapter for trivial or infrequent uses of state property, facilities, or services; if fees for the uses are not contained herein; or as the circumstances may warrant." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

30. Section 13-234-13, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-13 Gear locker fee. (a) The charge for the use of gear lockers provided by the State shall be:

- (1) Standard wood locker [\$5.50] \$10.00 per month
- (2) Triangular fiberglass locker [\$3.00] \$6.00 per month

(b) In the event that permission is given by the department for a boat owner to provide a personal gear locker pursuant to section 13-232-44, the charge, while the permit remains in effect, shall be thirty per cent of the rate established in subsection (a)." [Eff 2/24/94; am] (Auth: HRS §200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-12)

31. Section 13-234-15, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-15 Waiver of fees. The department reserves the right to waive or reduce [any fees or charges contained in this chapter.] late charges and interest that may be incurred by a permittee." [Eff

2/24/94;am](Auth: HRS
§§ 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-7,
200-12)

32. Section 13-234-16, Hawaii Administrative Rules,
is amended to read as follows:

"§13-234-16 Permit processing fees. The charge
for the processing of a use permit shall be as
follows:

- (1) Initial issuance of permanent permit for
docking, mooring, or anchoring a vessel (see
section 13-231-3) .. [\$5] \$10.00; initial
issuance of commercial use permit .. [\$25]
\$50.00;
- (2) Renewal of permanent permit for docking,
mooring, or anchoring a vessel (see section
13-231-5) .. [\$5] \$10.00; renewal of
commercial use permit .. [\$15] \$30.00;
- (3) Revision of permit:
 - (A) At owner's request [\$5] \$10.00; or
 - (B) By department's action (see section 13-
231-7) .. no charge; and
- (4) All other use permits listed in section 13-
231-3:
 - (A) Initial issuance [\$5] \$10.00;
and
 - (B) Renewal of permit [\$3] \$10.00.

[If a permittee utilizing any property or
facility fails to renew a use permit on or before the
date on which it expires, the applicable renewal fee
plus a penalty fee of \$1 per month shall be collected
from the permittee for each month or fraction of a
month the permittee is late in applying for renewal of
a permit and any other penalty fees provided by these
rules.]" [Eff 2/24/94; am]

(Auth: HRS §200-10) (Imp: HRS §§200-2, 200-12)

33. Section 13-234-26, Hawaii Administrative Rules,
is amended by amending subsection (b) to read as
follows:

"(b) Any passenger vessel using a dock, pier or
wharf in a state small boat harbor for disembarking
and embarking passengers by means of any boat or
lighter while moored offshore, shall pay a fee per
passenger for disembarking and embarking at each small
boat harbor as follows:

- (1) Passenger vessels engaging only
in interisland commerce:.....\$ [.30] 1.00
- (2) Passenger vessels engaging in international
or inter-state commerce:.....\$1.00

The rate schedule (b) (1) shall be implemented one year from the effective date of the 2010 amendment to this rule. Vessels operated by a federal or state agency are exempt from the provisions of this subsection.

[Eff 2/24/94; am] (Auth: HRS
SS200-2, 200-3, 200-4, 200-10) (Imp: HRS SS200-2,
200-3, 200-4, 200-10)

34. Section 13-234-28, Hawaii Administrative Rules,
is amended by amended subsection (a) to read as
follows:

\$13-234-28 Negotiable instruments; service charge. (a) The service charge for any dishonored check, draft, certificate of deposit or other negotiable instrument is [\$12] \$25.00. [Eff 2/24/94; am] (Auth: HRS SS200-2, 200-4) (Imp: HRS SS200-2, 200-4)

35. Section 13-234-29, Hawaii Administrative Rules,
is amended to read as follows:

"\$13-234-29 Vessel inspection fee. The fee for a vessel inspection performed by the department prior to the issuance or reissuance of a regular mooring permit shall be [\$15] \$50.00. The fee is not refundable. A vessel owner shall make an appointment with the harbor agent not less than five working days prior to having the vessel inspected. A fee of [\$10] \$20.00 shall be charged if notice of cancellation by the vessel owner is not given to the harbor agent not less than two working days prior to the scheduled inspection. The fee for vessels exempted from numbering in section 13-231-2, Hawaii Administrative Rules, and open skiffs and dinghies less than thirteen feet in length shall be \$5." [Eff 2/24/94; am] (Auth: HRS SS200-4, 200-10) (Imp: HRS SS 200-4, 200-10)

36. Section 13-234-31, Hawaii Administrative Rules,
is amended to read as follows:

"\$13-234-31 Fee for commercial use of boat launching ramps and other boating facilities. The fee

for the use of state launching ramps, wharves, or other state boating facilities except state small boat harbors shall be [\$75] \$200.00 per month or [two] three per cent of gross receipts, whichever is greater. The single fee assessed for the use of a state launching ramp shall entitle the permittee to use any other state launching ramp on the same island without additional charge, except for those launching ramps listed in section 13-231-67." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-4)

37. Section 13-243-5, Hawaii Administrative Rules, is repealed.

[§13-243-5 Recognition of marine examination decals. In order to free enforcement personnel for other inspections and duties and in recognition of the exacting requirements of the Courtesy Marine Examination, enforcement personnel shall not stop and board any vessel properly displaying a valid United States Coast Guard Auxiliary Courtesy Marine Examination decal for the purpose of determining compliance with this chapter except upon reasonable belief that the vessel is being operated in violation of these rules or other regulations or laws.] [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-22, 200-24)]

38. Chapter 244, Hawaii Administrative Rules, is amended by adding a new section 13-244-15.5 to read as follows.

"§13-244-15.5 Operation of power driven vessels.

(a) Any person operating a power driven vessel on the waters of the state shall be required to possess a certificate of completion from a National Association of State Boating Law Administrators (NASBLA) approved course on the safe use and operation of a power driven vessel that contains a component on Hawaii waters approved by the department. Exempt from this requirement are persons who:

- (1) Possess a valid license to operate a vessel issued for maritime personnel by the United States Coast Guard pursuant to 46 CFR Part 10, or
- (2) Operate a thrill craft in a commercial thrill craft zone as authorized by the State.

(b) A person under fifteen (15) years of age shall not operate a power driven vessel on the waters of this state unless accompanied on-board and directly supervised by a person fifteen (15) years of age or older who holds the required certificate of completion.

(c) A person or the person's responsible managing employee or agent engaged in the business of renting or leasing power driven vessels shall not rent or lease a power driven vessel to any person for operation on the waters of the State unless the person:

- (1) Meets all the requirements of this rule; and
- (2) Is identified on the rental or lease agreement for a power driven vessel by name and age. A person or the person's agent or employee renting or leasing power driven vessels who fails to request and inspect certificates or evidence of exemption is in violation of this rule.

(d) A person who is operating a power driven vessel on any waters of the State and who is stopped by a law enforcement officer shall present to the officer, upon request, a certificate of completion required by this rule or acceptable evidence of exemption from the required certificate. Failure to present a certificate of completion or acceptable evidence of exemption shall constitute a violation of this rule, unless the person presents the required certificate or evidence of exemption to a court of law and satisfies the court that this person held a proper certificate or was exempt at the time the person was asked to produce the certificate.

(e) A person who alters, forges, counterfeits or falsifies a certificate or other document used as

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evidence, or who possesses a certificate or other document that has been altered, forged, counterfeited or falsified, or who loans or permits that person's certificate or other document to be used by another person, shall be in violation of this rule.

(f) The department shall maintain a list of NASBLA approved courses that provide a department approved component on Hawaii waters, which shall include but not be limited to:

- (1) Local ocean safety principles and practices; and
- (2) Any rules or laws pertaining to protected species and power driven vessel operation in the State.

(g) This rule shall be enforced beginning on the second anniversary date of the rule's effective date.

(h) Pursuant to section 200-25, Hawaii Revised Statutes, any person violating this rule shall be fined not less than \$50 and not more than \$1000 or sentenced to a term of imprisonment of not more than thirty days, or both, for each violation; provided that in addition to, or as a condition to the suspension of, the fines and penalties, the court may deprive the offender of the privilege of operating any vessel in the waters of the State for a period of not more than thirty days." [Eff]

(Auth: HRS §§ 200-2, 200-3, 200-4, 200-21, 200-22, 200-24) (Imp: HRS §§ 200-2, 200-3, 200-4, 200-21, 200-22, 200-24)

39. Section 13-244-19, Hawaii Administrative Rules, is amended to read as follows:

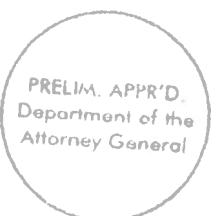
"§13-244-19 Authorization required to hold regatta, marine parade, boat race or exhibition. (a) Definition of terms used in this chapter. "Regatta" or "marine parade" means an organized water event of limited duration which is conducted according to a prearranged schedule.

(b) Authorization required; submission of application.

- (1) Any person or organization planning to hold a regatta or marine parade which, by its nature, circumstances or location, will introduce extra or unusual hazards to the safety of persons or property on the waters of the State shall submit an application to the chairperson of the board of land and natural resources or the person(s) designated by the chairperson. No person shall hold such a regatta or marine parade, unless the authorization of the chairperson, or the person(s) designated by the chairperson, has been secured, except that the chairperson's authorization is not required if prior authorization has been secured from the United States Coast Guard. Examples of conditions which are deemed to introduce extra or unusual hazards to the safety of life include, but are not limited to: an inherently hazardous competition, the customary presence of commercial or pleasure craft in the area, any obstruction of navigable channels which may reasonably be expected to result, and the expected accumulation of spectator craft.
- (2) Where the events are to be held regularly or repeatedly in a single area by an individual or organization, the chairperson or the person(s) designated by the chairperson, may subject to conditions set from time to time by the department, grant a permit for the series of events for a fixed period of time, not to exceed one year.
- (3) The application and all required documents listed on the application, shall be submitted no less than thirty days prior to

the start of the proposed event. If the application is received less than thirty days prior to the start of the proposed event, the application may be rejected.

- (4) The application shall be complete and include [the following details]:
- (A) Name and address of sponsoring organization.
 - (B) Name, address, and email address (if any) and telephone number of person or persons in charge of the event.
 - (C) Nature and purpose of the event.
 - (D) Information as to general public interest.
 - (E) Estimated number and type of watercraft participating in the event.
 - (F) Estimated number and type of spectator water craft.
 - (G) Number of boats being furnished by sponsoring organization to patrol event.
 - (H) Time schedule and description of events.
 - (I) A section of a chart or scale drawing showing the boundaries of the event, various water courses or areas to be utilized by participants, officials and spectator craft.
 - (J) The applicant shall pay a non-refundable \$25.00 application and processing fee for each event day at the time the application is submitted.
 - (K) A certificate of general liability insurance issued by an insurer licensed



or authorized to conduct business in Hawaii naming the sponsoring organization as the insured and the State of Hawaii as an additional insured. The limits of liability insurance under every such policy shall be in accordance with Section 13-231-65.

(c) An authorization by the chairperson or the person(s) designated by the chairperson, does not exempt a person [from] holding an event from compliance with applicable federal law." [Eff 2/24/94; am] (Auth: HRS §§ 200-4, 200-22, 200-24) (Imp: HRS §§ 200-4, 200-22, 200-24)

40. Section 13-256-5, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-5 Commercial use permits; public auction. (a) Unless otherwise provided by law, all commercial use permits issued by the department under this chapter for thrill craft, [or] parasail, high speed boating, or water sledding operations may be made at public auction under sealed bid after public notice.

(b) Before any prospective bidder is entitled to submit a bid for a commercial use permit, the prospective bidder shall, not less than six calendar days prior to the day designated for opening bids, give written notice of its intention to bid to the officer charged with issuing the commercial use permits. Each prospective bidder shall submit answers, under oath, to questions contained in a questionnaire, provided by the department, setting forth a complete statement of the experience, competence and financial standing of the prospective bidder. The names and the number of persons who have submitted a notice of intention to bid shall not be divulged. Information contained in the answers to the questionnaire shall remain confidential, and any government officer or employee who knowingly divulges or permits to be divulged any such information to any person not fully entitled thereto shall be fined not

more than \$250. A questionnaire so submitted shall be returned to the bidder after having served its purpose.

(c) Advertisement for bids. Publication of a call for tenders shall be made not less than three times on not less than three different days in a newspaper of general circulation printed and published within the State and in a newspaper of general circulation published in the county in which the designated area is located. The first publication shall be not less than three weeks prior to the date designated for the opening of tenders. Notice of the call for tenders shall contain the following:

- (1) Location where the bid questionnaire is available;
- (2) Time and place of the opening of tenders;
- (3) General description of the designated area;
- (4) Specific use for which the commercial use permit is intended; and
- (5) The upset price as established by the department. Unless a higher amount is specified for a specific commercial use permit the annual upset price shall be \$900.00, which is the monthly charge of \$75.00. If the commercial use permit is located within an area which requires less than twelve months of operation, the upset price shall be adjusted accordingly.

(d) All bids shall be sealed and delivered to the officer advertising therefore and shall be opened by the officer at the time and place to be stated in the call for tenders which time shall not be less than ten days after the last publication, in the presence of all bidders who attend, and may be inspected by any bidder. All bids which do not comply with the requirements of the call for tenders shall be rejected. The officer calling for bids may reject any or all bids and waive any defects when in the officer's opinion such rejection or waiver will be in the best interest of the public.

(e) All bids shall be accompanied by a deposit of legal tender, or a certificate of deposit, cashier's check or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, or on a savings institution insured by the Federal Savings & Loan Insurance Corporation or by a share certificate issued by a credit union insured by the National Credit Union Administration, in a sum of not

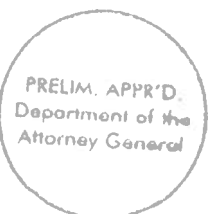
less than five per cent of the amount bid, payable at sight to the officer advertising for tenders. A bid deposit may also be in the form of a surety bond conforming to the requirements of Section 103-31, Hawaii Revised Statutes.

(f) If the highest bidder to whom the commercial use permit is awarded fails or neglects to fully comply with the terms and conditions for the issuance of the commercial use permit within ten days after the award or within such further time as the officer awarding the permit may allow, the bidder shall forfeit the bid deposit to the State. If the permit is issued, the bid deposit shall be returned to the permittee upon receipt of the first monthly payment. The deposits made by the unsuccessful bidders shall be returned to them after the commercial use permit is issued or if the commercial use permit is not awarded or issued after the officer's determination to publish another call for tenders or not to issue any commercial use permit.

(g) The commercial use permit shall be awarded to the highest qualified bidder. If there is more than one authorized commercial operating area in a particular designated area, then the permit for each operating area shall be made by a separate call for tenders.

(h) No commercial operator shall be awarded more than one commercial use permit per designated area. Each bidder shall be awarded only one commercial use permit per designated area. Thus, if a bidder is the highest qualified bidder on more than one operating area then that bidder shall choose one operating area and the bidder's other bids shall be deemed withdrawn.

(i) Each commercial use permit shall be valid for one year [with an option to renew the commercial use permit no more than four times, which shall be accomplished on or before the anniversary date of its initial issuance. A permittee interested in renewing its commercial use permit, shall however, notify the department sixty days before the expiration of the commercial use permit of its intent to renew. The terms and conditions during the renewal period shall be the same as those applicable to the initial issuance except as to the renewal option which shall in no event cause the commercial use permit to be renewed more than four times. At the end of the fourth renewal period of the permit, the permit may again be offered for public auction, provided that the



previous permittee shall be offered the right of first refusal at the new upset price].

(j) Monthly payments for a commercial use permit shall be based upon 1) one-twelfth of the bid price or 2) a percentage of the monthly gross receipt equal to [two] three per cent, whichever is greater. Gross receipt is defined in §13-256-12.

(k) The commercial use permit does not give the permittee any vested property rights. The department reserves the right not to issue or renew any commercial use permits." [Eff 2/24/94; am]
(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)
(Imp: HRS §200-2, 200-3, 200-4, 200-22, 200-24)

41. Section 13-256-11, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-11 Fees. (a) Fees required to be paid to the department are as follows:

- (1) Registration fee. A registration fee payable at time of issuance and renewal shall be as prescribed in section 13-253-1;
- (2) [Operator] Commercial use permit issuance fee. A commercial [operator] use permit issuance fee payable at time of issuance and or renewal of the permit shall be as prescribed in §13-253-2;
- (3) Commercial operating area use permit fee. A monthly commercial use permit fee shall be the greater of [\$75.00] \$200.00 per month, payable in advance, or [2%] 3% of the monthly gross receipts. The report of gross receipts shall be submitted to and received by the department not later than the end of the month following the month covered by the report and shall be submitted on a form acceptable to the department. A permittee possessing both a harbor commercial use permit and a commercial operating area use permit who is paying [2] 3% of gross receipts under the commercial harbor use permit shall not be required to pay an additional [2] 3% of gross receipts under the commercial operating area use permit.

[(b) Delinquency in the payment of any fees owed to the department will result in automatic revocation of the commercial operating area use permit.]" [Eff

2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

42. Section 13-256-16, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-16 Thrill craft operations; general provisions. (a) No person under fifteen years of age shall operate a thrill craft. No person shall permit, or mislead another person into permitting, a person under fifteen years of age to operate a thrill craft.

(b) No person shall operate thrill craft within a marine life conservation district or marine natural area reserve.

(c) Thrill craft operations shall be curtailed in certain designated areas as described in subchapters two through eleven as necessary, to: 1) avoid possible adverse impacts on humpback whales or other protected marine life; 2) provide for increased public access; 3) reduce user conflicts; and 4) promote overall public safety

(d) [Effective January 2005, all] All recreational thrill craft operators shall be required to possess, and make available upon demand of enforcement personnel, a certificate of completion from [an accredited institution of higher education] a State approved course on the safe use and operation of a thrill craft. The State may recognize reciprocity with other states, i.e., the National Association of State Boating Law Administrators (NASBLA) approved portion of the personal water craft course; however, all operators shall be required to complete the portions of a certificate course for Hawaii that includes, but is not limited to: (1) Local ocean safety principles and practices; (2) The historical, cultural, and customary practices of Hawaii's ocean users; and (3) Any rules or laws pertaining to protected species and thrill craft operation in the State.

(e) All thrill craft operators shall wear and employ a kill switch lanyard if the vessel is equipped with this technology. Both operators and passengers shall be required to wear a personal flotation device in accordance with section 13-243-1." [Eff 2/24/94; am

July 5, 2003] (Auth: HRS §§200-2, 200-4, 200-22, 200-24) (Imp: HRS §§ 200-2, 200-4, 200-22, 200-24)

43. Section 13-256-17, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-17 Recreational thrill craft operations.

(a) Access to and from designated recreational thrill craft operating areas shall be by the most direct route consistent with safety considerations. Thrill craft operators shall not exceed a speed of slow-no-wake when within three hundred feet of the shoreline.

(b) In non-designated ocean recreation management areas, recreational thrill craft may operate [only in state waters between] five hundred feet from the shoreline or the outer edge of the fringing reef whichever is greater and [two miles off] seaward off the islands of Kauai, Oahu, Maui and Hawaii. Operating a thrill craft within three miles of Kahoolawe, Lanai, Molokai and Niihau is prohibited.

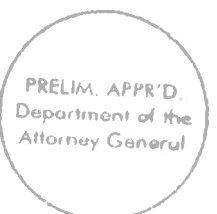
(c) In designated ocean recreation management areas, recreational thrill craft may operate [only] within locations designated for recreational thrill craft use and may traverse the ocean recreation management areas by the most direct route consistent with safety considerations to non-designated ocean waters.

(d) No thrill craft shall be operated for profit or gain in a recreational thrill craft operating area.

(e) Recreational thrill craft may gain access to state waters only from launching or harbor facilities or from private beach front property." [Eff 2/24/94; am] (Auth: HRS §§ 200-2, 200-4, 200-24, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-22, 200-24)

44. Section 13-256-18, Hawaii Administrative Rules, is amended by amending subsection (b) to read as follows:

"(b) Commercial thrill craft are limited to operating within a two hundred foot radius of the permitted designated location except as otherwise designated. The number of thrill craft permitted to operate within each commercial thrill craft operating



area shall be as directed by the department, not to exceed a limit of six rental units and two safety units per area. Water sledding operations may be conducted in the designated thrill craft areas only if no other thrill craft activity is ongoing in said area." [Eff 2/24/94; am July 5, 2003; am]
(Auth: HRS §§200-2, 200-4, 200-22, 200-24, 200-37)
(Imp: HRS §§200-2, 200-4, 200-22, 200-24, 200-37)

45. Section 13-256-22, Hawaii Administrative Rules, is amended by amending subsection (j) to read as follows:

"§13-256-22 Tow-in surfing. (j) Tow-in surfing may only be conducted during periods of high surf warning as declared by the National Weather Service[.] (NWS) in the region for which the high surf warning has been issued by the NWS." [Eff July 5, 2003; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

46. Section 13-256-24, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-24 Kauai Tow-in surfing areas. (a) Areas of ocean waters, excluding the designated ocean recreation management areas (ORMA), surrounding the island of Kauai where tow-in surfing is allowed are shown on Exhibit "1-B," titled "Ocean Recreation Management Areas Designated Tow-in Surfing Areas Island of Kauai," dated January 4, 2002, located at the end of this subchapter and incorporated herein, and described as follows [(all positions of latitude and longitude are provided in global positioning system (GPS) coordinates)]:

- (1) Area I, which includes waters seaward and perpendicular to the shoreline beginning at Kailiu Point[at 22 degrees 13.430 minutes north, 159 degrees 34.855 minutes west], then east along

the shoreline (including Hanalei Bay) and ending at the southeastern point of Moloaa Bay [at 22 degrees 11.675 minutes north 159 degrees 19.495 minutes west];

- (2) Area II, Northern point of Papaa Bay to Hanamaulu Bay which includes waters seaward and perpendicular to the shoreline beginning at the northeast point of Papaa Bay [at the 22 degrees 10.675 minutes north, 159 degrees 18.630 minutes west], then south along the shoreline and ending at Hanamaulu Bay [at 21degrees 59.658 minutes north, 159 degrees, 20.050 minutes west];

- (3) Area III, Hanapepe Bay to Milolii, which includes waters seaward and perpendicular to the shoreline beginning at Hanapepe Bay [at 21 degrees 53.755 minutes north, 159 degrees 35.855 minutes west], then west and north along the shoreline ending at the shoreline at Keawanui Point [at 22 degrees 09.000 minutes north, 159 degrees 43.385 minutes west]. Persons engaged in tow-in surfing activities may extend their operation into designated ORMA waters for board and personnel recovery, rescue, and emergency purposes.

(b) Training and instruction in tow-in surfing techniques may be conducted on a case-by-case basis at selected areas in accordance with a permit issued pursuant to section 13-244-19, provided that the trainee is under the direct supervision of an instructor who possesses a certificate of completion as described in section 13-256-22(g).

(c) Thrill craft operating areas: Areas of ocean waters, excluding the designated ocean recreation management areas (ORMA), surrounding the island of Kauai where thrill craft operation is allowed are shown on Exhibit "G", titled, "South Shore Kauai, Hawaii," dated August 15, 1988, located at the end of this subchapter and incorporated herein.

(d) Thrill craft access to the southern point of Moloaa Bay to the Northern point of Hanamaulu Bay shall be from Waikaea Boat Ramp, and thrill craft access to Kuunakaole Point (southern end of Salt Pond beach) to Makaha Point shall be from Kikiaola Small Boat Harbor.

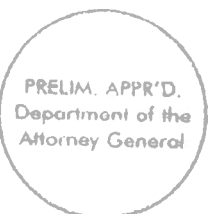
(e) The tow-in-surfing practice site shall be at Nohili Point located off the PMRF Naval Base. For marine advisories, call the recorded line at (808) 335-4229 for information on the days of operation and (808) 335-4301 (Range Control) if more information is required." [Eff July 5, 2003; am]
(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

47. Section 13-256-32, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-32 [Commercial Operator Licensee experience requirements.]Experience requirements to operate in or on the waters of the North Shore Kauai Ocean Recreation Management Area. (a) [No commercial vessel operator shall be issued a commercial operator permit to operate or navigate within the Na Pali Coast ocean waters unless the applicant has a minimum of ninety days experience operating within the Na Pali Coast ocean waters attested to by two persons each of whom holds a valid commercial operator permit issued by the department.

(b) No commercial kayak tour guide license shall be issued a commercial operator licensee unless the operator meets the following conditions:

- (1) Possesses a current Red Cross Advanced Life Saving Certificate,
- (2) Has knowledge of elementary first aid;



- (3) Is physically qualified to perform as a kayak tour guide as evidenced by a written report of a physical examination made no earlier than thirty days prior to the application for the license; and
- (4) Demonstrates a satisfactory knowledge of the waters through presentation of a log of ocean kayak trips performed in the Na Pali Coast restricted area during the preceding six-month period.

(c) The department shall establish an advisory committee of not less than three commercial operator licensees to review applications and make recommendations for commercial operator licenses required by this section. The department may seek recommendations for membership on the advisory committee from the North Shore Charter Boat Association. Members of the advisory committee shall have not less than three years experience in their area of specialty operating in the North Shore Kauai Ocean Recreation Management Area.] Every commercial vessel conducting business in or on the waters of the North Shore Kauai Ocean Recreation Management Area, as shown on Exhibit "A", North Shore Kauai Ocean Recreation Management Areas, dated June 30, 1988, located at the end of this subchapter and incorporated herein, shall be operated by an individual possessing:

- (1) A current adult CPR and first aid certificate;
- (2) At least ninety days documented employment or other experience aboard a vessel operating on the waters of the North Shore Ocean Recreation Management Area. Acceptable evidence of the competency of the operator may take the form of the following:

- (A) Two letters of recommendation by commercial vessel operators meeting the aforementioned requirements.
- (B) United States Coast Guard U.S. Merchant Marine Officer."

[Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

48. Section 13-256-33, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-33 Priority and procedures in the issuance of commercial use permits. [(a)] Notwithstanding the commercial use permit limitations in section 13-256-36 of fifteen commercial use permits at Hanalei River mouth and two commercial use permits for Anini Beach launching ramp, all commercial vessels operating with valid commercial use permits issued by the department on September 30, 1988, and who have complied with all the rules of the department and all other federal, state or county requirements may be issued a new commercial use permit for Hanalei or Anini Beach restricted Area.]

[(b)] (a) All commercial use permits shall be valid for not more than one year[. These permits]and shall automatically terminate on the expiration date. [and there shall be no presumption or implication of a right to renew.]

[(c)] (b) An application for a commercial use permit shall be made in writing to the department on the form provided by the department. The applicant shall indicate in the application the type and characteristics of the vessel, including but not limited to the vessel's overall length, draft, beam, principal source of propulsion, and any secondary or auxiliary source of propulsion, the passenger carrying capacity, and any other pertinent information. No application shall be complete until the applicant pays the application fee prescribed in these rules. The department shall accept the completed application form for consideration by endorsing it and entering the time and date on the application form submitted. The time and date the application is endorsed by the department shall be the effective filing date and

shall establish the applicant's priority date; provided, however, priority for applicants who held a commercial use permit for Hanalei bay or river in November 2000 shall be based upon the date the department issued such permit. An applicant must file a new application form each year but the effective filing date shall remain the same.

[(d)] (c) Only when the number of commercial use permits issued under subsection (a) falls below the number authorized in section 13-256-[36] 38 or section 13-256-39, will the department offer a permit to the applicant with the next [earliest] highest priority date; provided that in no event shall the limit set in section 13-256-[36] 38 or section 13-256-39 be exceeded thereby." [Eff 2/24/94; am]
(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)
(Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

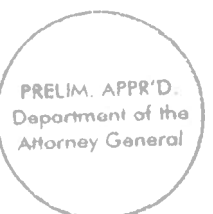
49. Section 13-256-34, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-34 Review, acceptance, or rejection of the application. (a) The department shall [examine and determine the genuineness of] review each application for a commercial [vessel] use permit and may require additional information or conduct an independent investigation or audit as may be [deemed] necessary to determine the applicant's eligibility for an available permit [for its determination].

(b) The department shall reject any application that contains a material misstatement or if the applicant has failed to disclose any material fact in the application.

(c) An application shall not be accepted for consideration and shall be rejected if:

- (1) The application fee is not paid at the time the application is made;
- (2) The applicant is delinquent in payment of any moneys due and payable to the department; [or]



- (3) The applicant has been determined through legal process to have violated the terms of an existing commercial use or mooring permit, or operated the vessel named in the permit in material violation of law [is in violation of the rules of the department.];
or

- (4) It is determined that the application is incomplete.

(d) [Upon rejection of] When an application [,] is rejected, the department shall notify the applicant, in writing within [a reasonable time,] ten working days, that the application has not been accepted for consideration and has been rejected and the reasons [therefore] for the rejection. The applicant shall be afforded the opportunity to submit a new application [upon the correction of deficiencies cited in the notification of rejection of the original application] when the cited deficiencies have been corrected." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

50. Section 13-256-35, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-35 [Owner] Permittee required to report change in ownership, address and other changes. (a) [In addition to the provisions in section 13-251-44, the] The holder of any commercial [vessel] use permit issued under this chapter shall notify the department in writing within seven days if:

- (1) The [owner] permit holder no longer has possession of the vessel [;] authorized for use under the commercial use permit;
(2) All or any interest in the principal vessel identified in the commercial use

permit is transferred to or assigned to another person(s) or business entity; [and] or

- (3) The [owner's] permit holder's address or telephone number changes.

(b) "Transfer" as used in this section means any sale, bareboat charter [Assignment], lease [of a vessel] or [the] change in ownership or transfer of stock in a corporate owner which results in a change of the majority stockholder[, or the transfer of interest in any other business entity which results in a change of the owner holding the majority interest].

(c) "Interest" as used in this section includes any claim of right, title, ownership of stock, shares, profit, benefit or gain in a corporation, partnership, joint venture or any other business entity that has a commercial vessel permit issued under this subchapter." [Eff 2/24/94; am]

(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

(Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

51. Section 13-256-36, Hawaii Administrative Rules, is repealed:

[§13-256-36 Use of commercial vessels at the Hanalei River, Hanalei Bay ocean waters, and Anini Beach launching ramp. In addition to any federal, state or county law, rule, or ordinance, the following restrictions shall apply at the Hanalei River, Hanalei Bay ocean waters, and Anini Beach launching ramp.

- (1) No commercial vessel shall operate at or use the Hanalei River, Hanalei Bay ocean waters, or Anini Beach launching ramp for any commercial purposes without a commercial use permit.
- (2) No commercial use permits shall be issued for commercial vessels to operate at or on the Hanalei river or Hanalei Bay ocean waters, except that up to two commercial use

permits may be issued for kayaks to operate on the Hanalei River or Hanalei Bay ocean waters. No more than twenty-four passengers shall be allowed per day under each permit. A kayak tour group shall not exceed six vessels for passengers, and shall additionally include at least one guide vessel per six passengers.

- (3) No more than two commercial use permits shall be issued for the Anini Beach launching ramp.
- (4) No more than three commercial kayak tour operators shall be registered and permitted to operate in the Na Pali Coast restricted area. No trip scheduled by a commercial kayak tour operator may include more than four kayaks for customers and two kayaks for guides. No commercial kayak tour operation shall conduct more than two trips per day.
- (5) Commercial vessels shall land at times designated by the department.
- (6) No commercial vessel shall carry more than thirty paying or non-paying passengers per day.
- (7) No commercial vessel shall be issued a commercial use permit to operate within the North Shore Kauai Ocean Recreation Management Area if its passenger carrying capacity exceeds twenty-five individuals.
- (8) The department may authorize a holder of an existing commercial use permit to substitute a larger vessel for a smaller vessel so long as the new vessel does not exceed the twenty-five person carrying capacity limit, nor the thirty passengers per day limitation. [Eff 2/24/94; am NOV 30 2000]

(Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)]

52. Section 13-256-37, Hawaii Administrative Rules, is amended to read as follows:

§13-256-37 [Fees] Registration and Commercial use permit fees. (a) Fees required to be paid to the department are described in Chapter 13-234 and more specifically as follows:

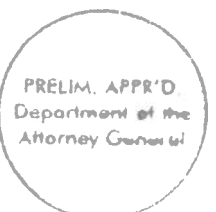
- (1) Registration fee. [A] The registration fee payable at the time of issuance shall be prescribed in section 13-253-1.
- [(2)] Operator license fee. A commercial operator license fee payable at time of issuance of the license shall be \$2.00.]
- [(3)] (2) Commercial [vessel] use permit fee. A monthly commercial [vessel] use permit fee shall be the greater of [\$75.00] \$200.00 or [two] three percent of the monthly gross receipts.

(b) Delinquency in excess of thirty days of any fees owed to the department [will] shall result in automatic [revocation] suspension of the commercial [vessel] use permit, and delinquency in excess of sixty days shall result in automatic expiration of the commercial use permit." [Eff 2/24/94; am
] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

53. Section 13-256-38, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-38 Anini Beach ocean waters. (a) Anini Beach ocean waters means the area confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and incorporated herein, and described as follows:

Beginning at a point at the low watermark from Honono Point, thence along a straight line on an azimuth of 142 degrees measured from true south to the inner edge of the reef of the channel,



thence clockwise along the outer edge of the reef to the intersection of a line drawn on an azimuth of 197 degrees from a point on the shoreline, then 017 degrees to the low water mark of the shoreline, then in a northerly direction along the Anini Beach shoreline to the point of beginning.

(b) Restrictions. Anini Beach and ocean waters[.] commercial activity. Except as provided in these rules, no commercial activity, including tours, instructions, equipment rentals or solicitations shall be conducted at the Anini Beach Launching Ramp or on any state beach or lands adjacent thereto. Permits allowed under these rules may not be issued unless the applicant has first obtained all applicable federal, state, county permits. No commercial vessel shall use the Anini Beach Small Boat Launching Ramp for a commercial purpose without a commercial use permit issued by the department. Only when the number of commercial use permits issued under this subsection falls below the number authorized will the department offer a permit to the applicant with the next highest priority date.

(1) [Anini Beach ocean waters shall be limited to providing commercial sailboard instruction only. No more than sixteen commercially owned sailboards may be employed in instructional use at any one time.] The department shall not issue more than two commercial use permits for Anini Beach Launch Ramp. A permit may be issued to a vessel of a size and configuration appropriate for the launch ramp so long as its passenger capacity does not exceed sixteen individuals as evidenced by the vessel's certificate of inspection. The

permit shall limit the permittee to the carriage of no more than thirty-two passengers per day.

- (2) Motorized vessels operating within Anini Beach ocean waters shall not exceed a speed of "slow-no- wake" [(five miles per hour)] within two hundred feet of the shoreline.
- (3) [Motorized vessels] Vessels and sailboards shall not[proceed] navigate within one hundred feet of persons engaged in fishing. This restriction shall apply to vessels transiting the channel to or from the launching ramp.
- (4) A maximum of two commercial use permits for commercial sailboard or stand-up paddle board instruction may be issued for Anini ocean waters; provided, however, no more than eight sailboards or stand-up paddle boards shall be allowed within the Anini ocean waters at any one time under each permit. Instructors shall have a minimum of three (3) years of surfboard or sailboard riding experience, possess a Red Cross advanced life saving certificate, and know elementary first aid.
- (c) Swimming Zone A, Anini Beach ocean waters.
- (1) Swimming Zone A, Anini Beach ocean waters means the ocean waters confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and incorporated herein, and described as follows:
Beginning at a point on the low water mark seventy-five feet east of the launching ramp, then proceeding in a straight line perpendicular to the low water mark seaward

for a distance of one hundred feet, then proceeding in a straight line to a point on the extended eastern property line of Anini Beach Park located one hundred feet from the low water mark, then along the extended property line to the low water mark, then along the low water mark to the point of beginning.

- (d) Swimming Zone B, Anini Beach ocean waters.
- (1) Swimming Zone B, Anini Beach ocean waters means the ocean waters confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and incorporated herein, and described as follows:

Beginning at a point on the low water mark on an azimuth measured clockwise from True South of 167 degrees from Honu Point, proceeding in a straight line for a distance of one hundred feet, then proceeding in a straight line to the extended western property line of Anini Beach Park located at a point in the water one hundred feet from the low water mark, then along the extended property line to the low water mark, then along the low water mark to the point of beginning.

- (e) Restrictions. Swimming Zones A and B of Anini Beach ocean waters are designated for swimming and bathing. No person shall operate or moor a vessel or sailboard within these zones." [Eff 2/24/94; am
](Auth: HRS §§200-2, 200-3, 200-4,
200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-
22, 200-24)

54. Section 13-256-39, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-39 Hanalei Bay ocean waters, general restrictions. (a) Hanalei Bay ocean waters means all ocean waters and navigable streams confined by the boundaries shown on Exhibit "C" dated September 19, 1988, located at the end of this subchapter and incorporated herein, and described as follows:

Beginning at a point on the shoreline at the northernmost tip of Makahoa Point on the western end of the bay, thence along a straight line drawn tangent to the shoreline of Puu Poa Point on the eastern end of the bay, thence clockwise along the shoreline, including the banks of all navigable streams to the upper limit of tidal influence, to the point of beginning.

(b) [The Hanalei Bay ocean waters are subject to the following restrictions] In addition to all federal, state, and county laws, rules, and ordinances, the following restrictions shall apply to all activities in Hanalei Bay ocean waters.

- (1) No person shall operate a vessel at a speed in excess of "slow-no-wake" [(five miles per hour)] within five hundred feet of the shoreline, an ingress/egress lane, designated mooring area, or on the Hanalei River [or within the designated mooring area].
- (2) No person shall navigate a motorboat within three hundred feet of a [shoreline,] diver's flag[,] or a designated swimming area. [No person shall navigate a commercial motorboat within five-hundred feet of the shoreline, except within the designated ingress/egress corridors.] Vessels engaged in fishing are exempt from the three-hundred foot shoreline restriction, except that they may not enter designated swimming areas.

- (3) No person shall anchor or moor a vessel, raft, barge, platform or other contrivance except within the designated mooring area.
- (4) No [commercial] fishing vessel [over fifty] longer than thirty feet [in length] overall may engage in fishing except by pole and line within Hanalei Bay ocean waters.
- (5) No commercial vessel shall land on the shoreline at Hanalei Bay without a permit issued by the department, or a lease or permit issued by the board of land and natural resources, or approval by the County of Kauai to land a vessel at the adjoining county park .
- (6) The department may issue three (3) commercial use permits for self-propelled vessels landing at the shoreline at Hanalei Bay. Permits shall be limited to passenger vessels certified by the Coast Guard to carry twenty-five or fewer passengers, and each permit shall authorize the carrying of no more than thirty passengers daily. Priority for the initial issuance of permits under this 2010 amendment shall be given to the operators that held a commercial use permit in November 2000.
- (7) The department may issue two (2) commercial use permits for the Hanalei launch ramp for the purpose of conducting guided kayak tours.
- (8) The department may issue eight(8) permits for water sports instruction, including surfing and stand-up paddle boarding. Each permit shall authorize one instructor per day to conduct water sports instruction. The permit shall authorize classes of up to four students per instructor. The instructor shall have a minimum of three (3) years surfing experience and possess a current Red Cross advanced life saving certificate.

(c) Recreational Zone A, Hanalei Bay ocean waters.

- (1) Recreational Zone A [mean] means the ocean waters confined by the boundaries shown on Exhibit "C" dated September 19, 1988, located at the end of this subchapter and incorporated herein, and described as follows:

All ocean waters and navigable streams located mauka of a straight line drawn from the end of Hanalei Pier to Makahoa Point.

- (2) Restrictions. [Zone A Hanalei Bay ocean waters is designated for recreation use.] No [commercial vessel,] commercial sailboard, surfboard or other commercial water [recreational device] sports equipment may be [navigated] used within Zone A without a valid commercial use permit issued by the department. [,provided that commercial vessels may be moored within that portion of the designated mooring area located within Zone A.]

(d) Swimming Zones B-1 and B-2, Hanalei Bay ocean waters.

- (1) Zones B-1 and B-2 mean the areas confined by the boundaries shown and described in Exhibit "C" dated September 19, 1988, located at the end of this subchapter and incorporated herein, as follows:

[Zone B-1 shall be established only when a sand beach of a minimum width of two feet at high tide is present fronting Black Pot Beach Park.]

Zone B-1 swimming area extends three hundred feet seaward of the low water mark for a

distance of three hundred feet on each side of Hanalei Pier.

Zone B-2 swimming area extends three hundred feet seaward of the low water mark between the extended boundary lines of the county park containing the beach pavilion.

- (2) Restriction. Zones B-1 and B-2 are designated for bathing and swimming. No person shall operate or moor a vessel, sailboard, or any other recreation device within Zones B-1 and B-2, provided that this restriction shall not apply to:
 - (A) [Non-motorized vessels] Vessels engaged in small-scale surround net fishing without the use of motors or fishing and crabbing from shore;
 - (B) Hawaiian design outrigger canoes.

(e) The designated mooring area for the mooring or anchoring of [transient and locally based vessels] vessels, rafts, barges, platforms and other watercraft, is the area encompassed by the boundaries shown on Exhibit "C" dated September 19, 1988, located at the end of this subchapter and incorporated herein, and which are described as follows:

Beginning at a point on the northwest corner of Hanalei Pier by azimuths clockwise from True South, 123 degrees for a distance of six hundred seventy-five feet; 346 degrees for a distance of one thousand two hundred seventy-seven feet; 022 degrees for a distance of seven hundred fifty-six feet; 127 degrees for a distance of three thousand two hundred twenty-five feet; then on a straight line to the point of beginning.

- [(2)] (1) All vessels, rafts, barges, platforms, and other watercraft within Hanalei Bay ocean waters shall be

moored or anchored solely within the designated mooring area.

- [(3)] No person shall navigate, moor, or anchor a commercial vessel, providing services on a fee basis, in a designated mooring area unless the vessel has been registered and the owner has a valid commercial use permit issued by the department.]
- [(4)] (2) No person shall anchor, moor or stay aboard a vessel except those equipped with an approved marine sanitation device (MSD) in good working condition, or those vessels exempt from MSD requirement in accordance with U.S. Coast Guard regulations.
- [(5)] (3) No permanent mooring shall be installed within the designated mooring area except by permit issued by the department.
- (f) Ingress/Egress zones.
- (1) [Ingress/Egress zones shall be established at intervals along the shoreline to provide beach access for all motorized vessels and non-motorized dinghies and tenders from transient and visiting vessels anchored or moored within the designated mooring area] Vessels shall access the shoreline solely through the following Ingress/Egress zones. Zone number one begins at the southern boundary of the County Park pavilion parcel and extends southwest along the shoreline a distance of three hundred feet, then seaward to the designated mooring area. Zone number two begins at the north bank of Hanalei River and extends southward across

the Hanalei River mouth to the northern boundary of Black Pot Park, and then extends seaward to the designated mooring area.

[(2)] (2) Zone number one is designated for use by recreational motorized vessels, sailing catamarans and dinghies used as tenders for transient recreational vessels.]

[(3)] (2) Zone number one and Zone number two [is] are designated for use by both commercial and recreational vessels."

[Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

55. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section, section 13-256-42, to read as follows:

"§13-256-42 Kee Beach/Lagoon ocean waters, general restrictions. (a) The Kee Beach/Lagoon ocean waters are subject to the following restrictions.

- (1) Motorized vessels may only operate at slow no wake speed. No anchoring or landing on the shoreline is permitted.
- (2) Vessels shall not approach within 100 feet of all swimmers.

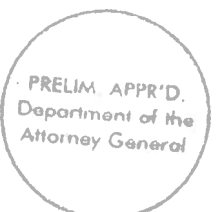
This section shall not apply in the event of an emergency, to law enforcement, or to rescue craft."

[Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

56. Section 13-256-52, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-52 Nawiliwili Bay restricted zones.

(a) Zone A, Nawiliwili Bay is the ocean waters encompassed by the boundaries of the zones as shown on Exhibit "I", dated November 23, 1988, located at the



end of this subchapter and incorporated herein. The boundaries of Zone A are as follows:

Beginning at a point at the low water mark on the southern tip of Kukii Point then by azimuths measured clockwise from True South; 090 degrees across the bay to a point on the jetty; then proceeding north along the low water mark along the shoreline of Kalapaki Bay to the point of beginning.

Zone A, Nawiliwili Bay is designated for general ocean recreation activities. No person shall moor a vessel or operate at a speed in excess of slow no wake within Zone A. A maximum of two permits may be issued for surf-schools. Each surf-school shall not exceed four students to one instructor at any time.

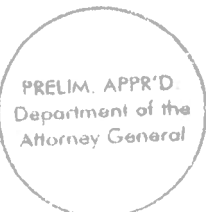
Instructors shall have a minimum of three (3) years surfboard riding experience, possesses a Red Cross advanced life saving certificate, and know elementary first aid." [Eff 2/24/94; am]

(Auth: HRS §§200-2, 200-3, 200-4, 200-21, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-21, 200-22, 200-24)

57. Section 13-256-54, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-54 Koloa Landing Restricted Area (a) The Koloa Landing restricted area means the ocean waters confined by the boundaries for said zones as shown on Exhibit "K", dated June 30, 1988, located at the end of this subchapter and incorporated herein. The boundaries are as follows:

Beginning at a point on the low water mark at the southern tip of Lae O Kohala, thence by azimuth measured clockwise from True South; 130 degrees to a point on the low water mark at the western edge of Keawaloa Bay; then long the low water mark of the shoreline in a northerly



direction and then on an easterly heading to the point of beginning.

(b) Restrictions. Koloa Landing restricted area is designated for swimming and diving. No person shall operate or moor a vessel in this area, except that a vessel may enter or depart the area by a straight line from the boat launching area to the closest seaward boundary line. All vessels transiting the area shall not exceed a speed of slow-no-wake.

(c) In addition to any federal, state, or county law, rule, or ordinance, a commercial use permit issued by the department shall be required to conduct commercial SCUBA or commercial snorkeling activities in this area.

(d) A maximum of sixteen (16) commercial use permits may be issued. The instructor to student ratio shall not exceed the SCUBA industry standards. [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-21, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-21, 200-22, 200-24)

58. Section 13-256-56, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-56, Wailua River restricted area. (a) Restrictions in this section shall not apply to department vessels, department personnel or emergency, patrol or rescue craft while performing official duties.

(b) The Wailua River restricted area means the navigable waters of Wailua River, Kauai, as defined by the boundaries as shown on Exhibit "L", titled, "Island of Kauai, Wailua River Restricted Area," dated February 27, 1998, [and] located at the end of this subchapter and incorporated herein. The boundaries begin at a point at the high water mark at the mouth of the Wailua River and include all the navigable waters along the Wailua River in a westerly direction

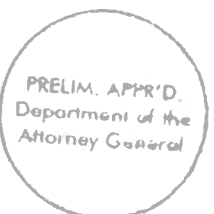
to the base of Kaholalele Falls on the north fork of the river and all the navigable waters to the base of the Wailua Falls on the south fork of the river.

(c) The Wailua River restricted area shall be divided into [four] five zones:

- (1) Zone 'A' includes all the navigable waters beginning fifty feet into the river from the western side of the Wailua River bridge and from seventy-five feet into the Wailua River from the north shoreline to a point approximately eighteen hundred feet along the shoreline, then extends from the banks of the north shoreline to approximately seven hundred and eighty-three yards upstream as indicated by the navigational aids on both sides of the river designating the boundary between Zones 'A' and 'B', as shown on Exhibit "L-1", titled, "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, [and] located at the end of this subchapter and incorporated herein.
- (2) Zone 'B' includes all waters extending approximately two miles upstream from the navigational aids on both sides of the river designating the boundary between Zones 'A' and 'B' to the base of Kaholalele Falls on the north fork of the river and approximately three and a half miles from the navigational aids designating the boundary between Zones 'A' and 'B' to the base of the Wailua Falls on the south fork of the river as shown on Exhibit "L", titled, "Island of Kauai, Wailua River Restricted Area," dated February 27, 1998, [and] located at the end of this subchapter and incorporated herein.
- (3) Zone 'C' includes the waters beginning at the west side of the Wailua River bridge between the north and south banks and extends fifty

feet into the river, then proceeds along the north shoreline extending seventy-five feet into the Wailua River from the north shoreline to a point approximately eighteen hundred feet along the shoreline as shown on Exhibit ``L-1," titled, "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, [and] located at the end of this subchapter and incorporated herein.

- (4) Zone 'D' begins at the eastern boundary of Zone 'C' and extends under the Wailua River bridge between the north and south banks, extending to the shoreline.
- (d) General rules for Wailua River.
- (1) Only commercial and recreational vessels not exceeding twenty-one feet in length shall be allowed to utilize the Wailua River and shall be limited to:
 - (A) Vessels used for water-skiing[;] and other recreational purposes;
 - (B) Motorized vessels, excluding thrill craft and wind powered vessels; and
 - (C) Manually-propelled vessels.
- (2) Commercial barges, or vessels otherwise allowed by the department, shall be exempt from vessel length restrictions described in paragraph (1).
- (3) Recreational motorized vessels, and recreational and rented manually-propelled vessels may utilize Zones 'A', 'B' and 'C' as provided for in this section.
- (4) Zone 'C' shall be designated a slow-no-wake [swimming] zone indicated by marker buoys. [Motorized vessels] Vessels [launching from launch ramp 'A'] shall proceed with caution while within Zone 'C'.
- (5) All manually-propelled vessels shall be required to operate along side the northern river bank.
- (6) All vessel operators shall possess a state park permit to embark or disembark along the



shores only within the state park in Zone 'B'.

- (7) No commercial kayak tour operations or commercial water-skiing will be permitted on Sundays, State and Federal holidays without the expressed written permission from the department.

(e) Commercial vessel activity requirements for Wailua River.

- (1) Unless otherwise provided by law, anyone conducting commercial activities on the Wailua River shall possess a valid commercial[activity]use permit from the department.
- [(2)] All individuals possessing a commercial activity permit to utilize the Wailua river as of June 11, 1999, may retain the commercial activity permit on the effective date of these rules.]
- [(3)] (2) All available commercial [activity] use permits may be issued in accordance with section 13-231-60.
- [(4)] (3) Reissuance of commercial [activity] use permits shall be in accordance with section 13-231-61.
- [(5)] (4) Commercial barges, or vessels otherwise allowed by the department, may only utilize Zones 'A', [and] 'B' and 'E'.
- [(6)] (5) All commercial vessel activity is prohibited from Zones 'C' and 'D'.
- [(7)] (6) Commercial water-skiing [commercial activity] permittees shall abide by the requirements described in subsection (g).
- [(8)] (7) Commercial manually-propelled vessel [commercial activity] permittees shall abide by the requirements described in subsection (f).

(f) Commercial manually-propelled vessel requirements for the Wailua River.

- (1) Not more than fifteen manually-propelled vessel commercial [activity] use permits, with a maximum of twelve vessels per commercial [activity] use permit per day, [and with a maximum of four guides per permit,] may be issued for guided tours for the Wailua River.
- (2) Not more than four manually-propelled vessel commercial [activity] use permits, with a maximum of six vessels per commercial [activity] use permit, maybe issued for rented manually-propelled vessels for the Wailua River.
- (3) In addition to the provisions in subsection (e)(1), manually-propelled vessel commercial [activity] use permittees utilizing the Wailua River shall abide by the following:
 - (A) For guided tours, a minimum of one tour guide shall be required for each group of twelve people;
 - (B) Tour guides shall be required to wear a bright orange shirt with the company name printed on the shirt when guiding tours; and
 - (C) All commercial manually-propelled vessels permittees shall be provided a Wailua River restricted area decal for each commercial manually-propelled vessel and shall be required to display it on the bow of the vessel.
- (g) Waterskiing activity requirements for the Wailua River.
 - (1) Waterskiing may be conducted in Zone 'A' in an area designated by the department, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, [and] located at the end of this subchapter and incorporated herein, and shall be prohibited in Zone 'C'.

- (2) Waterskiing may be conducted in Zone 'B' only between sunrise to 9:00 a.m. and from 5:00 p.m. to sunset.
- (3) A maximum of [one] two commercial [activity permit]use permits may be issued for water-skiing activities.
- (4) The vessel towing water skiers may tow not more than one person at any one time.
- (5) Waterskiing shall be conducted in accordance with section 13-244-18.
- (6) Waterskiing activities shall be exempt from the speed restrictions of section 13-244-9.
- (7) Waterskiing vessel traffic patterns shall be in a counter-clockwise direction.
- (8) Waterskiing tow ropes shall not exceed seventy-five feet in length
- (9) Vessels engaged in waterskiing activities shall not exceed a speed of thirty-six miles per hour.
- (10) The only water [water] towing apparatus allowed shall be those equipped with boots, straps, or a leash on the board or ski. As an exception, inflatable tube type devices and body boards with tether cords may be towed. These devices may only be towed within the lower boundaries of Zone 'A' limited at the top by the location of Opaekaa Bridge.
- (h) Launch ramp restrictions.
- (1) All commercial vessels are prohibited from utilizing Launch ramp 'A', as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, [and] located at the end of this subchapter and incorporated herein, and shall be required to utilize Launch ramp 'B', as shown in Exhibit "L-1," titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1988, and located at the end of this subchapter.

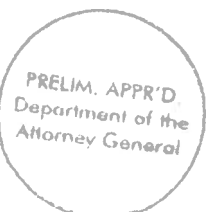
(i) The eastern half of the lower Kaumualii area, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, [and] located at the end of this subchapter and incorporated herein, shall be used exclusively for the launching and recovery of Hawaiian outrigger canoes.

(j) The western half of the lower Kaumualii area, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, [and] located at the end of this subchapter and incorporated herein, may be utilized by recreational vessels, other than Hawaiian outrigger canoes, allowed on Wailua River." [Eff 10/19/02;am
] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)(Imp: HRSS§§200-2, 200-3, 200-4, 200-22, 200-24)

59. Chapter 13-256, Hawaii Administrative Rules, is amended by adding section 13-256-57 to read as follows:

"§13-256-57 Kihouna Bay. Kihouna Bay is designated for general ocean recreation activities. No person shall moor a vessel or operate at a speed in excess of slow-no-wake while within Kihouna Bay. The maximum of five (5) surf-school permits may be issued with a ratio of four students to one instructor at any time. Instructors shall have a minimum of three (3) years of surfboard riding experience, possesses a Red Cross Advanced Life Saving Certificate, and know elementary first aid." [Eff
] (Auth: HRS §§200-2, 200-3, 200-4, 200-21, 200-22, 200-24)(Imp: HRSS§§200-2, 200-3, 200-4, 200-21, 200-22, 200-24)

60. Section 13-256-71, Hawaii administrative Rules, is amended by adding new definitions and amending the



definition of "Windward Oahu Ocean Recreation Management Area" to read as follows:

"Commercial ocean use activities" means commercial operation of thrill craft, high speed boating, parasailing, water sledding, sailing and snorkeling tours, glassbottom boat tours, or any other similar commercial ocean recreation activity.

"Family Member" means any person and his or her spouse as well as their legal children.

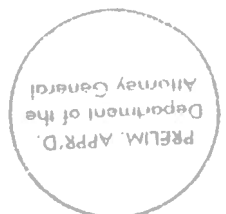
[The] "Windward Oahu Ocean Recreation Management Area" means all ocean waters and navigable streams from northwest boundary of Kahana Bay to Makapuu Point, Oahu, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "T", dated August 15, 1988, located at the end of this subchapter.""

[Eff 2/24/94; am] (Auth: HRS
SS200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS
SS200-2, 200-3, 200-4, 200-22, 200-24, 200-39)

61. Section 13-256-72, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-72 Kualoa [Ocean Waters Restricted Zones.]water restricted zones. (a) Zone A Kualoa [Ocean Waters] waters restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "U", "Kualoa, Oahu, Hawaii," [Date June 30, 1988] dated September 8, 1998, incorporated herein, and located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point [on the low water mark of the shoreline which is four hundred seventy-five feet south of the groin across from the sugar mill, then by azimuth measured clockwise from True South, 270 degrees for a distance of eight hundred ten feet; 360 degrees for a distance of five hundred twenty-five



feet; 090 degrees to a point on the low water mark of the shoreline; then along the low water mark] at approximately 21° 31' 16.6" N/ 157° 50' 06.9" W, then going in an easterly direction to approximately 21° 31' 16.6" N/ 157° 49' 58.2" W, then going in an southerly direction to approximately 21° 31' 11.5" N/ 157° 49' 58.2" W, then going in a westerly direction to approximately 21° 31' 11.5" N/ 157° 50' 07.3" W, then to the point of beginning.

Zone A is designated as a commercial thrill craft zone for the Kualoa full service permit. [No] Not more than six rental thrill craft and one thrill craft used for safety and rescue purposes shall operate at any one time. No person shall operate or moor a vessel or sailboard in [this zone] Zone A when [in use] being used by commercial thrill craft. Commercial thrill craft shall be operated within Zone A only between the hours of [41]9:00 a.m. and 5:00 p.m., Mondays through [Fridays] Saturdays. No commercial thrill craft shall be operated within Zone A on [Saturdays,] Sundays [, and state] or federal holidays.

(b) Zone B Kualoa [Ocean Waters] waters restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "U", "Kualoa, Oahu, Hawaii," dated [June 30, 1988] September 8, 1998, incorporated herein, and located at the end of the subchapter. The boundaries of Zone B are as follows:

Beginning at a point [on the low water mark of the shoreline which is two hundred feet north of the boundary of Kualoa Regional Park; then along low water mark of the shoreline in a northerly direction to a point marking to southwest point of Zone A; then by azimuth measured clockwise from True South, 270 degrees for a distance of eight hundred feet; 180 degrees for a distance of



five hundred twenty-five feet; 270 degrees for a distance of three hundred sixty feet; 360 degrees for a distance of one thousand thirty-five feet;] at approximately 21° 31' 16.6" N/ 157° 49' 58.2" W, then in an easterly direction to approximately 21° 31' 16.6" N/ 157° 49' 56.0" W, then in an southerly direction to approximately 21° 31' 06.4" N/ 157° 49' 56.5" W, then in a westerly direction to approximately 21° 31' 06.4" N/ 157° 50' 07.5" W, then in a northerly direction to approximately 21° 31' 11.5" N/ 157° 50' 07.7" W, then in an easterly direction to approximately 21° 31' 11.5" N/ 157° 49' 58.2" W, then in a northerly direction [then] by straight line to the point of beginning. Zone B is designated as a non-exclusive commercial ocean water sports zone [for sailing, windsurfing and scuba diving]. High speed towing, water skiing, and water sledding shall be prohibited. [Vessels] All vessels transiting [this zone] Zone B shall proceed with extreme caution.

(c) All commercial ocean [recreation] use activities are prohibited within Kualoa [ocean] waters restricted zones [() A ()] and [() B ()] on Sundays [, effective January 1, 1991] and federal holidays." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

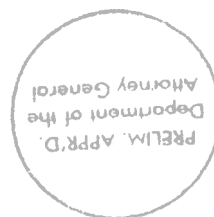
62. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-72.1 to read as follows:

"§13-256-72.1 Kualoa waters restricted zones permit. (a) Not more than one Kualoa full service



permit shall be issued for Kualoa waters restricted zones subject to the following conditions:

- (1) The number of thrill craft shall be in accordance with the limits authorized in section 13-256-72(a). The number and type of other vessels and equipment shall not exceed the number and type of vessel and equipment permitted by the department on the effective date of these rules;
- (2) All thrill craft and other operational vessels and equipment shall be registered in accordance with section 13-256-4 (a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal;
- (3) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit a vessel substitution with a similar length vessel; provided that the increase is not greater than ten per cent of the length of the vessel being substituted as it existed on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited;
- (4) The maximum number of customers per day may be established through the conservation district use permit application process, but shall not exceed one- hundred and fifty customers;
- (5) Water sledding, water skiing, and high speed towing shall be prohibited;
- (6) The permittee shall maintain a daily log of the number of customers serviced by thrill craft and shall present the logs to division of boating and ocean recreation for review and inspection upon request; and



(7) Educational and not-for-profit tours shall not be counted against daily customer limits, but shall not exceed the maximum number of one hundred fifty customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-profit passengers shall not engage in thrill craft or high speed towing activities.

(b) All associated commercial operational and supporting activities shall be conducted from land in accordance with all applicable land use laws and zoning ordinances.

(c) Any vessel with an authorized carrying capacity of more than six passengers with installed toilet facilities shall be equipped with a United States Coast Guard approved marine sanitation device.

(d) Any transfer by the permittee or any transfer or combination of transfers of a majority interest or greater by the owners or shareholders of record of a business entity holding a permit shall automatically void the use of thrill craft and the permit shall revert to a large snorkel tour permit as found in section 13-256-73.5, unless the transfer is to a family member.

(e) Any transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, HRS, for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a large snorkel tour.

(f) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of commercial operation." [Eff

] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)



63. Section 13-256-73, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-73 Kaneohe Bay [Waters] ocean waters.

(a) Kaneohe Bay ocean waters means the area encompassed by the boundaries shown on Exhibit "V", "Kaneohe Bay, Oahu, Hawaii," dated [May 15, 1990,] April 16, 2001, incorporated herein, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at the northern point on the shoreline of Mokapu Point, located at approximately 21° 27' 33.6" N/ 157° 43' 21.6" W, then [by azimuth measured clockwise from True South, 127 degrees for a distance of fifty thousand nine hundred and twenty-five feet] in a straight line to Makahonu Point, located at approximately 21° 32' 33.6" N/ 157° 50' 34.2" W, then along the shoreline of Kaneohe Bay to the point of beginning.

[(b) Commercial ocean recreation activities shall be restricted within Kaneohe bay waters as follows:

- (1) No commercial operator, holding a valid ocean recreational management area commercial use permit, shall operate a thrill craft, engage in water sledding or commercial high speed boating, or operate a motor vessel towing a person engaged in water sledding during weekends and state or federal holidays.

(2)]

- (b) All commercial ocean [recreation] use activities in Kaneohe Bay ocean waters are prohibited on [Sunday, effective January 1, 1991] Sundays and federal holidays.

(c) There shall be no walking, sitting, standing, or anchoring on live coral or otherwise damaging the reef within Kaneohe Bay ocean waters.



[(c)](d) Zone A Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit ["W"] "X", "Kaneohe, Oahu, Hawaii," dated [October 24, 1990,] September 25, 2000, incorporated herein, and located at the end of this subchapter. The boundaries of Zone A are [described] as follows:

[Beginning at a point in the water by azimuth measured clockwise from True South, 234.5 degrees for a distance of three thousand nine hundred feet from the Sampan Channel front navigational range light; then on a radius of two hundred feet around that point.] Zone A is a circle with a radius of two hundred feet with its center at approximately 21° 26' 27.5" N/ 157° 47' 45.5" W.

[(d)](e) Zone B Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit ["W"] "X", "Kaneohe, Oahu, Hawaii," dated [October 24, 1990,] September 25, 2000, incorporated herein, and located at the end of this subchapter. The boundaries of Zone B are as follows:

[Beginning at a point in the water, by azimuth measured clockwise from True South, 200 degrees for a distance of five thousand two hundred eighty feet from a point on the low water mark on the northern tip of Kealahi Point; then on a radius of two hundred feet around that point.] Zone B is circle with a radius of two hundred feet with its center at approximately 21° 27' 28.5" N/ 157° 48' 08.5" W.

[(e)](f) Zone C restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit ["W"] "X", "Kaneohe, Oahu, Hawaii," dated [October 24, 1990] September 25, 2000, incorporated herein, and located at the end of this subchapter. The boundaries of Zone C are as follows:

[Beginning at a point in the water, by azimuth measured clockwise from True South, 194 degrees for a distance of five thousand four hundred ninety feet from a point on the low water mark on the northern tip of Kealohi Point; then on a radius of two hundred feet around that point.]

Zone C is a circle with a radius of two hundred feet with its center at approximately 21° 27' 32" N/ 157° 48' 13.5" W.

[(f) Zone D Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on exhibit "W", dated October 24, 1990, and located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, 187 degrees for a distance of five thousand seven hundred thirty feet from a point on the low water mark on the northern tip of Kealohi Point; then on a radius of two hundred feet around that point.]

(g) Zones A, B, and C are subject to the following:

- (1) Zones A, B, and C [, and D] are designated as commercial thrill craft zones where full service permittees shall be required to operate. [No] Not more than six rental thrill craft shall operate within each [zone] of the zones A and B at any one time. No more than three rental thrill craft shall operate within zone C at any one time. [No person shall operate or moor a vessel or sailboard in these zones.] Zone A may be referred to as the Checker Reef commercial thrill craft zone. Zones B and C may be referred to as the commercial thrill craft sand flat zones.

- (2) Commercial thrill craft shall be operated in a clockwise direction only within zones A, B, and C [, and D] only between the hours of 9:00 a.m. and 5:00 p.m., Mondays through [Fridays] Saturdays. No commercial thrill craft shall be operated within Zones A, B, or C[, and D] on [Saturdays,] Sundays[, and state] or federal holidays.

[(g) Zone E Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "V-1", dated October 24, 1990, and located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point in the water which is located by azimuth measured clockwise from True south, 219 degrees for a distance of three thousand four hundred eighty feet from the low water mark on the northern tip of Wailau Point "Kahaluu Landing"; then 300 degrees for a distance of five thousand two hundred eighty feet; 026 degrees for a distance of eight hundred forty feet; 032 degrees for a distance of five hundred forty feet; 120 degrees for a distance of one thousand six hundred twenty feet; then by a straight line to the point of beginning.:]

(h) Zone D Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "W", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone D are as follows:

Zone D is rectangular in shape which borders the Kaneohe Bay entrance channel day beacon 11 beginning at a point in the water which is located at approximately 21° 28' 32" N/ 157° 49' 39"W, then by a straight line in a due East (true) direction to approximately

21° 28' 32" N / 157° 49' 32" W, then in a straight line to approximately 21° 28' 10.5" N / 157° 49' 27" W, then in a straight line due West (true) to approximately 21° 28' 10.5" N / 157° 49' 34"W, then in a straight line back to beginning.

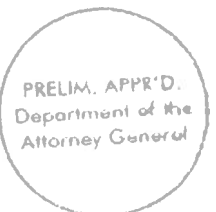
[(h)] Zone [E] D is restricted to commercial SCUBA, snorkeling and sightseeing cruises only. Anchoring on live coral is prohibited. No person shall walk, stand or sit on live coral formations. Commercial snorkeling operators shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. Activity shall take place only near the reef, not on the reef. Vessels entering this zone shall use extreme caution while this zone is occupied during diving activities.

[(i)] Zone F Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "W", October 24, 1990, and located at the end of this subchapter.

The boundaries of Zone F are as follows:

Beginning at a point in the water which is located by azimuth measured clockwise from True South, 182 degrees for a distance of four thousand two hundred sixty feet from the North tip of the pier at Heeia Kea Small Boat Harbor; then 120 degrees for a distance of one thousand nine hundred fifty feet; 212 degrees for a distance of five hundred forty feet; 206 degrees for a distance of eight hundred forty feet; 314 degrees for a distance of one thousand two hundred feet; then by a straight line to the point of beginning.]

(i) Zone E Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown

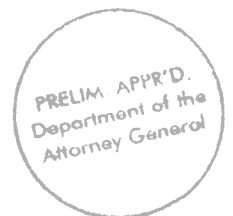


on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone E are as follows:

Zone E is a circle with a radius of three hundred ten yards with its center located at approximately 21° 27' 25" N / 157° 47' 46.5" W. Zone E is restricted to SCUBA, snorkeling, underwater activities, and sightseeing cruises only. Anchoring on live coral is prohibited. No person shall walk, stand or sit on live coral formations. Commercial snorkeling operators shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. Vessels entering this zone shall use extreme caution while this zone is occupied during diving activities.

(j) Zone [G] F Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on exhibit ["W"] "X", "Kaneohe, Oahu, Hawaii," dated [October 24, 1990,] September 25, 2000, [and] located at the end of this subchapter and incorporated herein. The boundaries of Zone [G] F are as follows:

Beginning at a point in the water which is located [by azimuth measured clockwise from True South, 213 degrees for a distance of three thousand eight hundred ten feet from the north tip of the pier at Heeia Kea Small Boat Harbor; then 120 degrees for a distance of one thousand six hundred eighty feet; 211 degrees for a distance of seven hundred twenty feet; 301 degrees for a distance of one thousand six hundred sixty-five feet;] at approximately 21° 26' 50" N / 157° 47' 45" W, then by a straight line to approximately 21° 26' 23.5" N / 157° 47' 25" W, then by a straight line to approximately 21° 26' 16" N /



157° 47' 34" W, then by a straight line to approximately 21° 26' 20.5" N / 157° 47' 59.3" W, then by a straight line to approximately 21° 26' 28.5" N / 157° 48' 09" W, then [by] in a straight line to the point of beginning.

Zone F is designated as non-exclusive commercial ocean water sports zone. All vessels entering this zone shall exercise extreme caution while it is being utilized for commercial ocean water sports activities. Anchoring on live coral is prohibited. No person shall walk, stand or sit on live coral formations. Commercial operators operating in this zone shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. All activity on top of Checker Reef in Zone F is prohibited.

(k) Zone G Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone G are as follows:

Beginning at a point in the water which is located at approximately 21° 26' 25" N / 157° 47' 49" W, then by a straight line to approximately 21° 26' 22" N / 157° 47' 34" W, then by a straight line to approximately 21° 26' 16.5" N / 157° 47' 36" W, then by a straight line to approximately 21° 26' 19" N / 157° 47' 51" W, then by a straight line to the point of beginning. Zone G is designated as non-exclusive commercial water ski and water sledding zone.

Commercial water skiing and water sledding and the operation of towed devices used to carry passengers for commercial purposes shall be restricted to this zone. No more than one commercial vessel for water

sledding shall be permitted to tow at any speed within this zone at any one time for safety purposes.
Commercial large full service permittees and non-commercial recreational users shall share the zone equally. All towing shall be conducted in a clockwise direction. No person shall moor or anchor a vessel within this zone. High speed operations shall take place in deep water 200 feet or more from any reef edge, reef crest, or sand flat.

[(k) Zones F and G are designated as commercial and recreational water ski and water sledding zones. All water skiing and water sledding and the operation of towed devices used to carry passengers for both commercial and recreational purposes west of the Sampan Channel is restricted to these zones. No more than four commercial operating area use permits for water sledding shall be permitted in Zone F or G for safety purposes. No Person shall moor a vessel within these zones.

(l) Zone H restricted zone is the area encompassed by the boundaries show on Exhibit "V-1", dated October 24, 1990, and located at the end of this subchapter. The boundaries of Zone H are as follows:

Beginning at a point in the water which is located by azimuth measure clockwise from True South, 219 degrees for a distance of three thousand four hundred eighty feet from the low water mark on the tip of Wailau Point "Kahaluu Landing"; Then 168 degrees for a distance of three thousand five hundred seventy feet; 270 degrees for a distance of one thousand three hundred twenty feet; 311 degrees for a distance of nine thousand feet; 039 degrees for a distance of one thousand two hundred seventy-five feet; 012 degrees for a distance of one thousand fifty feet; 031 degrees for a distance of

seven hundred twenty feet; 120 degrees for a distance of five hundred ten feet; 173 degrees for a distance of one thousand three hundred sixty-five feet; 134 degrees for a distance of one thousand two hundred feet; then by a straight line to the point of beginning.

(m) Zone H-1 restricted zone is the area encompassed by the boundaries shown on Exhibit "W", dated October 24, 1990, and located at the end of this subchapter. The boundaries of Zone H-1 are as follows:

Beginning at a point in the water which is located by azimuths measure clockwise from True South, 206.5 degrees for a distance of six thousand five hundred ten feet from a point on the low water mark on the northern tip of the Kealahi Point; then 210 degrees for a distance of two thousand seven hundred seventy-five feet; 227 degrees for a distance of two thousand seven hundred seventy-five feet; 039 degrees for a distance of one thousand fifty feet; then in a straight line to the point of beginning.

No person shall operate a vessel within Zones H and H-1 at a speed in excess of slow-no-wake. Recreational thrill craft and water ski and water sledding activities are prohibited. Commercial vessels and activities are prohibited, except for commercial fishing vessels engaged in baiting operations.

(n)] (1) [Kaneohe Bay recreational thrill craft zone is the area seaward of the boundaries of Zones "H", "H1" and "I" shown on Exhibit "X", dated October 24, 1990, and located at the end of the subchapter. The boundaries are as follows:

Beginning at a point in the water immediately south of buoy "3", which marks the southeast boundary of the northern shipping channel in Kaneohe Bay; then

in southerly direction along the eastern boundary of the channel to the intersection of the Sampan Channel at buoy "10", except where zoned for other activity; then in a northeast direction along the northwestern boundary of the Sampan Channel to buoy R-2; then on a straight line to the point of beginning.

The Kaneohe Bay recreational thrill craft zone is designated for recreational thrill craft.] Recreational thrill craft shall not be operated in any [other] area of Kaneohe Bay [.] except in the designated recreational thrill craft zone as described in section 13-256-77. Recreational thrill craft shall access the recreational thrill craft zone by transiting from Heeia Kea small boat harbor directly to the Sampan channel to the Kaneohe recreational thrill craft zone as described in section 13-256-77.

[(o) Zone I restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "W", dated October 24, 1990, and located at the end of this subchapter. The boundaries of Zone I are as follows:

Beginning at a point in the water which is located by azimuths measured clockwise from True South, 213 degrees for a distance of three thousand eight hundred then feet from the north tip of the pier at Heeia Kea Small Boat harbor; then 210 degrees for a distance of six hundred seventy-five feet; 121 degrees for a distance of one thousand six hundred sixty-five feet; 192 degrees for a distance of one thousand fifty feet; 219 degrees for a distance of one thousand two hundred seventy-five feet; 311 degrees for a distance of five thousand eight hundred twenty feet; 037 degrees for a distance of one thousand nine hundred fifty feet; then by a straight line to the point of beginning.]



(m) Zone H restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone H are as follows:

Beginning at a point in the water which is located at approximately 21° 27' 32.5" N / 157° 48' 19.5" W, then by a straight line to approximately 21° 27' 26.5" N / 157° 48' 10" W, then by a straight line to approximately 21° 27' 14.5" N / 157° 48' 17" W, then by a straight line to approximately 21° 27' 20" N / 157° 48' 27" W, then in a straight line to the point of beginning. Zone H is designated as non-exclusive commercial water ski and water sledding zone.

Commercial water skiing and water sledding and the operation of towed devices used to carry passengers for commercial purposes are restricted to this zone. No more than two commercial vessels for water sledding shall be permitted to tow at high speed within this zone at any one time for safety purposes. Commercial full service permittees and non-commercial recreational users shall share the zone equally. All towing shall be conducted in a clockwise direction. No person shall moor a vessel within this zone. High speed operations must take place in deep water 200 feet or more from any reef edge, reef crest, or sand flat.

(n) Zone I restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone I are as follows:

Beginning at a point in the water located at approximately 21° 27' 41" N / 157° 48' 18" W, then by a line parallel to the edge of the sand flat to approximately 21° 27' 32" N / 157° 48' 02" W, then

by a straight line to approximately 21° 27' 25" N / 157° 48' 07" W, then by a straight line to approximately 21° 27' 34" N / 157° 48' 22.5" W, then by a straight line to the point of beginning.

Zone I is designated as non-exclusive commercial ocean water sports zone. Other vessels entering this zone shall exercise extreme caution while it is being used for commercial ocean water sports activities. Commercial operators operating in this zone shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest. Commercial operators whose passengers do not operate thrill craft must keep their passengers out of Thrill Craft Zones B and C. Vessels operating in Zone I shall maintain a watch for sea turtles , which may migrate to the north central part of the zone, and exercise care to stay clear of any turtle observed.

[(p) Zone J restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "W", dated October 24, 1990, and located at the end of this subchapter. The boundaries of Zone J are as follows:

Beginning at a point in the water which is located by azimuths measured clockwise from True south, 235 degrees for a distance of two thousand five hundred eighty feet from the front Sampan Channel navigational range light; then 114 degrees for a distance of one thousand two hundred thirty feet; 218 degrees for a distance of one thousand eight hundred feet; 287 degrees for a distance of one thousand six hundred ninety-five feet; 006 degrees for a distance of one thousand eighty feet; then by a straight line to the point of beginning.

(q) Zones I and J are designated as ocean water sports zones. Other vessels entering these zones shall exercise extreme caution while they are being utilized for commercial ocean water sports activities. Vessels operating in Zone I shall maintain a watch for sea

turtles which may migrate to the north central part of the zone, and exercise care to stay clear of any turtles observed.

(r) Zone J-1 Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "W", dated October 24, 1990, and located at the end of this subchapter. The boundaries of Zone J-1 are as follows:

Beginning at a point in the water by azimuths measured clockwise from True South, 206 degrees for a distance of two thousand two hundred fifty feet from Sampan Channel front navigational range light; then 114 degrees for a distance of two hundred twenty-five feet; 180 degrees for a distance of three hundred seventy-five feet; 218 degrees for a distance of one thousand four hundred forty feet; 287 degrees for a distance of four hundred fifty feet; then in a straight line to point of beginning.

(s) Zone J-1 is designated as commercial water ski and water sledding zones. All water skiing and water sledding and the operation of towed devices used to carry passengers for both commercial and recreational purposes is restricted to this zone. Only one commercial permitted within this zone for safety purposes. No person shall moor a vessel within this zone.

(t)] (o) Kaneohe Bay [channel] speed restrictions. [Notwithstanding any rule to the contrary, the speed of any watercraft shall not exceed 15 knots when within the confines of the Kaneohe Bay channel as shown on Exhibits "V-1", "W" and "X" dated October 24, 1990, and located at the end of this subchapter. The boundaries are described as follows:

The Kaneohe Channel, beginning at a line across the channel at day beacon G"11", then through each and every buoy and day beacon in ascending

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order to the intersection at the extended line of the Sampan Channel range marks.]

In addition to speed restrictions found in section 13-244-9, slow-no-wake restrictions shall apply in Kaneohe Bay offshore mooring areas, Kaneohe Bay ocean waters zones D, E, F, and I, Kualoa waters zone B, and anywhere within the Kaneohe Bay when a vessel is within two hundred feet of Kapapa Island and the Central Reef shallows defined as areas having a depth of less than or equal to five feet mean lower low water, including the area of Ahu O Laka Island, ("The Sand Bar").

[(u)] (p) No increase in the level of commercial ocean use activities [as of July 3, 1990] existing on July 1, 1993 will be permitted within Kaneohe Bay waters.

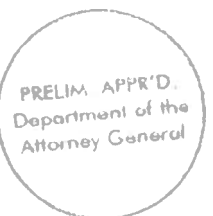
(q) Activities conducted by a bona-fide educational institution or an organization which is registered with the State and classified by the Internal Revenue Service as a not-for-profit (section 501 (c) (3)) organization shall not be subject to the restrictions of subsection (p), but shall operate only in accordance with a permit issued by the department pursuant to chapter 13-231 or chapter 13-256 or both.

(r) Anchoring or mooring on living coral is prohibited.

(s) All sea walker activity shall be done on a flat sandy bottom, not on sea grass beds.

(t) All underwater activity, including but not limited to SCUBA, snorkeling, and sea-walker, shall prohibit participants from touching coral and/or living parts of a reef." [Eff 2/24/94; am]

(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)



64. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.1 to read as follows:

"§13-256-73.1 Kaneohe Bay ocean waters commercial use permits. (a) No commercial ocean use activity may be conducted within Kaneohe Bay waters except in accordance with a Kaneohe Bay waters commercial use permit issued by the department. For the purpose of this section, "full service permit" means a permit which includes thrill craft, water sledding, and other high speed boating activities in addition to sailing, snorkeling, scuba diving, sail boarding, and other related water recreational activities approved by the department.

(b) The number and types of Kaneohe Bay ocean waters commercial use permits authorized for Kaneohe Bay ocean waters shall be as follows:

- (1) One full service permit as authorized in section 13-256-72.1;
- (2) Two large full service permits as authorized in section 13-256-73.2;
- (3) One small full service permit as authorized in section 13-256-73.3;
- (4) One small full service permit without thrill craft, water sledding, and high speed towing activities as authorized in section 13-256-73.4;
- (5) Three large snorkel tour operations, including associated underwater activities approved by the department, as authorized in section 13-256-73.5;
- (6) Three small sail or snorkel tour operations, including associated underwater activities approved by the department, as authorized in section 13-256-73.6; and

(7) One glass bottom boat tour operation as authorized in section 13-256-73.7.

(c) Any transfer of a large full service permit, except for a transfer to a family member as defined in section 13-256-71, shall revert the large full service permit to a large snorkel tour permit with an aggregate maximum carrying capacity of no more than one-hundred fifty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel. Any change from a large full service permit to a large snorkel tour permit shall be on a one for one basis reducing the number of large full service permits by one and authorizing an increase to the number of large snorkel tour permits by one.

(d) Any transfer of a small full service permit, except for a transfer to a family member as defined in section 13-256-71, shall revert the small full service permit to a small sail or snorkel tour permit with an aggregate maximum carry capacity of no more than sixty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel. Any change from a small full service permit to a small sail or snorkel tour permit shall be on a one for one basis reducing the number of small full service permits by one and authorizing an increase to the number of small sail or snorkel tour permits by one.

(e) The Kaneohe Bay ocean waters commercial use permit required under this section shall satisfy the requirement for all other harbor use permits required of commercial operators under chapter 13-231, with the exception of a mooring permit for each vessel moored in Heeia Kea Small Boat Harbor or offshore.

(f) The Kaneohe Bay waters commercial use permit fee per permit shall be as provided in HRS chapter 200 and rules adopted thereunder.

(g) The report of gross receipts shall be received by the department for each month covered by the commercial use permit no later than the end of the month following the reported month and shall be submitted on a form acceptable to the department. Failure to submit the report of gross receipts as required for a period in excess of sixty days following the due date, may be treated by the department as causing an automatic termination of the Kaneohe Bay waters commercial use permit.

(h) The department may conduct a financial audit of the records of a Kaneohe Bay ocean waters commercial use permit to determine the accuracy of reported gross receipts or to inspect any other financial information directly related to the enforcement of these rules after providing notice, as described in section 13-230-6, no less than thirty days prior to the audit.

(i) Any vessel with an authorized carrying capacity of more than six passengers with installed toilet facilities shall be equipped with a United States Coast Guard approved marine sanitation device.

(j) All permittees shall maintain a daily log of the operations, to include vessel and operator identifying information, number of customers serviced, fuel or sewage spills, sewage pumping out, refueling, incidents on the water and time of departure and arrival at the Heeia

Kea Small Boat Harbor pier, or authorized passenger loading and unloading area, or appropriate operating zone. All permittees shall submit the logs to the department each week.

(k) There shall be no passenger loading and unloading at a launch ramp at Heeia Kea Small Boat Harbor.

(l) Large full service permits authorized by section 13-256-73.2, shall be allowed to use no more



than three trailers per permit per day at the Heeia Kea Small Boat Harbor launch ramps for the launching and recovery of vessels. Small service permits authorized by sections 13-256-73.3 and 13-256-73.4, shall be allowed not more than two trailers per permit per day to use the Heeia Kea Small Boat Harbor launch ramps for the launching and recovery of vessels. Each trailer allowed to use a launch ramp shall be properly licensed and shall be issued a ramp use decal by the department which shall be affixed to the forward end of the trailer tongue.

(m) No activity that is new to a permittee may be conducted without prior written authorization from the department.

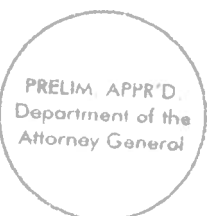
(n) Permittees shall establish a safety instruction program for customers that includes, but is not limited to, the use of a personal flotation device, and notification of hazardous conditions or areas and restricted areas.

(o) Permittees shall maintain a visual watch over persons in the water.

(p) Permittees shall have no less than one staff member on site within the permittee's Kaneohe Bay operating area who carries a current adult cardio-pulmonary resuscitation (CPR), and standard first aid and lifeguard training certificates. A list of water safety training certificates acceptable to the department shall be provided to the permittee."

[Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

65. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.2 to read as follows:



"§13-256-73.2 Large full service permit restrictions. (a) Not more than one-hundred fifty customers per day per permit shall be allowed for a large full service permit.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) Two host vessels with an aggregate maximum carrying capacity of one-hundred fifty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel.
 - (2) Six rental thrill craft and one thrill craft used for operational safety purposes;
 - (3) Two equipment barges, for each of which the passenger carrying capacity shall be six or as established by a United States Coast Guard Certificate of Inspection so long as the capacity is not greater than 20;
 - (4) Three motorboats, for each of which the passenger carrying capacity shall be six or less, as established by a United States Coast Guard Certificate of Inspection; and
 - (5) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, and small sailing vessels no larger than 20 feet, and individual water sports equipment as needed.
- (c) The passenger carrying capacity of each host vessel and service barge having a carrying capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.
- (d) The permittee shall indicate which host vessel is declared to be the primary vessel used to embark and disembark passengers from the pier. This vessel shall be allowed to load to full permit capacity of one-hundred fifty. Should the certified

passenger capacity of the primary vessel be less than one-hundred fifty, the vessel may conduct more than one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The three small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

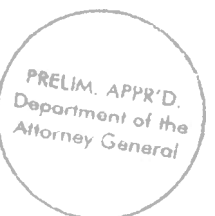
(f) Host vessels shall be equipped with a United States Coast Guard approved marine sanitation device.

(g) All thrill craft and other vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and must display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited.

(i) In the event there is a sale or transfer of a majority of ownership interest in the business to a person not an owner or a shareholder of record after the effective date of this section, the number of host vessels allowed per permit shall be reduced to one host vessel, unless the sale or transfer is to a family member.

(j) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not



exceed the maximum number of one hundred fifty customers allowed per day. Not-for profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-profit passengers shall not engage in thrill craft or high speed towing activities.

(k) Any transfer or combination of transfers by the owners or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically void the use of thrill craft, high speed towing/water sledding, and water skiing activities and the permit shall revert to a large snorkel tour permit as found in section 13-256-73.5 unless the transfer is to a family member. A transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, HRS, for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a large snorkel tour.

(l) High speed operations must take place in deep water 200 feet or more from any reef edge, reef crest, or sand flat.

(m) For the Checker Reef area, host vessel(s) must be moored with bow and stern anchoring as approved by the department, thirty feet or more off of the reef on the south and west edge of Checker Reef, with no obstruction of the use of the channel passing to the southwest of the reef.

(n) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of operation." [Eff]

(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)



66. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.3 to read as follows:

§13-256-73.3 Small full service permit restrictions. (a) Not more than seventy customers per day per permit shall be permitted for a small full service permit.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) One host vessel with a maximum passenger carrying capacity of seventy passengers;
- (2) Three rental thrill craft and one thrill craft used for operational safety purposes;
- (3) Two equipment barges, the passenger carrying capacity of each shall be six or as established by a United States Coast Guard Certificate of Inspection so long as the capacity is not greater than 20;
- (4) Two small motor boats, the passenger carrying capacity of each shall be six or less, as established by a United States Coast Guard Certificate of Inspection; and
- (5) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, small sailing vessels no larger than 20 feet, and individual water sports equipment as needed.

(c) The passenger carrying capacity of the host vessel and service barges having a capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

(d) The host vessel shall be allowed to load passengers to the full permit capacity of seventy. Should the certified passenger capacity of the vessel be less than seventy, the vessel may conduct more than

one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The two small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

(f) A United States Coast Guard approved marine sanitation device or portable toilet shall be located on either the host vessels or one of the equipment barges.

(g) All thrill craft and other vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have the discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited.

(i) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of seventy customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-profit passengers shall not engage in thrill craft or high speed towing activities.

(j) Any transfer or combination of transfers by the owner or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically void the use of thrill craft, high speed

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towing/water sledding, and water skiing activities and the permit shall revert to a small sail/snorkel tour permit as found in section 13- 256-73.6, unless the transfer is to a family member. A transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, HRS, for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a small sail/snorkel tour.

(k) High speed operations must take place in deep water two hundred feet or more from any reef edge, reef crest, or sand flat.

(l) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of operation." [Eff]
(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

67. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.4 to read as follows:

§13-256-73.4 Small full service permit restrictions without thrill craft, water sledding, and high speed towing activities.

(a) No more than seventy customers per day per permit shall be permitted for a small full service permit without thrill craft, water sledding, and high speed towing activities.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) One host vessel with a maximum passenger carrying capacity of seventy passengers.
- (2) Two equipment barges, the passenger carrying capacity of each shall be six or as

established by a United States Coast Guard Certificate of Inspection so long as the capacity is not greater than 20.

(3) Two small motorboats, the passenger carrying capacity of each shall be six or less, as established by a United States Coast Guard Certificate of Inspection; and

(4) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, small sailing vessels no larger than 20 feet, and individual water sports equipment as needed.

(c) The passenger carrying capacity of the host vessel and service barges having a capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

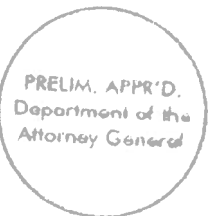
(d) The host vessel shall be allowed to load passengers to the full permit capacity of seventy. Should the certified passenger capacity of vessel be less than seventy, the vessel may conduct more than one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The two small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

(f) A United States Coast Guard approved marine sanitation device or portable toilet shall be located on either the host vessel or one of the equipment barges.

(g) All vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written



approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the vessel being substituted as it existed on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited.

(i) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of seventy customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(j) Any transfer or combination of transfers by the owners or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically cause the permit to revert to a small sail/snorkel tour permit as found in section 13-256-73.6, unless the transfer is to a family member. A transfer shall result in the assessment of a business transfer fee in accordance with section 13-256-7.

(k) Thrill craft, water sledding, waterskiing and high speed towing are not authorized activities under this permit." [Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

68. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.5 to read as follows:

"§13-256-73.5 Large snorkel tour permit restrictions. (a) No more than one-hundred fifty customers per day or the historical daily average of the months July, August, and September of the calendar

years 1996 thru 2000, whichever is lower, not to be less than seventy customers per day per permit shall be permitted.

(b) The passenger carrying capacity of the vessel(s) having a capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

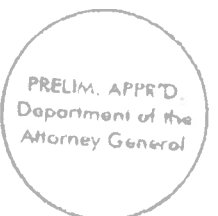
(c) All associated operational and supporting activities on land must meet all applicable land use laws and zoning ordinances, including, but not limited to the number of passengers allowed and approved for loading from private lands or as approved by the department through a conservation district use permit.

(d) Snorkel tours shall be conducted in Zones "D" and "E" within Kaneohe bay waters, pursuant to section 13-256-73.

(e) All stops for other than snorkeling shall be within the commercial area of the sand flat area within Kaneohe By waters designated as restricted zone I and shall not exceed two hours. Only non-motorized equipment may be used for water sports recreation.

(f) Any vessel authorized on the effective date of these rules to load passengers from the Heeia Kea Small Boat Harbor pier under a permit issued pursuant to chapter 13-231 is permitted to load to full certified passenger capacity.

(g) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited. Additional motorized and non-motorized



vessels and equipment not authorized on July 1, 1993 by the department shall not be allowed.

(h) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(i) All vessels shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(j) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in the business shall result in assessment of a business transfer fee in accordance with section 13-256-7.

(k) When the Kualoa full service permit or a large full service permit turns into a large snorkel tour permit because of a transfer of ownership to a non-family member, no additional motorized or non-motorized vessels or equipment shall be allowed to be added to the existing authorized inventory.

(l) When a large snorkel tour permit transfers ownership to a non-family member no more than seventy customers per day shall be permitted."

[Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

69. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.6 to read as follows:

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"§13-256-73.6 Small sail/snorkel tour permit restrictions.

(a) Not more than sixty customers per day or the historical daily average of the months July, August, and September of the calendar years 1996 thru 2000, whichever is lower, not to be less than thirty five customers per day per permit shall be permitted.

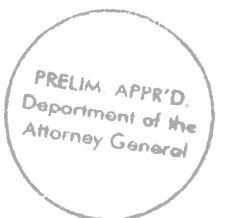
(b) The passenger carrying capacity of the vessel(s) having a capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

(c) Snorkel tours shall be conducted in Zones "D" and "E" within Kaneohe Bay waters, pursuant to section 13-256-73.

(d) All stops for other than snorkeling shall be within the commercial area of the sand flat area within Kaneohe Bay waters designated as restricted zone I and shall not exceed one hour. Only non-motorized equipment may be used for water sports recreation.

(e) Any vessel authorized on the effective date of these rules to load passengers from the Heeia Kea Small Boat Harbor pier under a permit issued pursuant to chapter 13-231 is permitted to load to full certified passenger capacity.

(f) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited. Additional motorized and non-motorized vessels and equipment not authorized on July 1, 1993, by the department shall not be allowed.



(g) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(h) All vessels shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(i) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in the business shall result in assessment of business transfer fee in accordance with section 13-256-7.

(j) When a small full service permit turns into a small snorkel tour permit because of a transfer of ownership to a non-family member, no additional motorized or non-motorized vessels or equipment shall be allowed to be added to the existing authorized inventory.

(k) When a small snorkel tour permit transfers ownership to a non-family member no more than thirty-five customers per day shall be permitted." [Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)
(Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

70. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.7 to read as follows:

"§13-256-73.7 Glass bottom boat tour permit restrictions.

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(a) The passenger carrying capacity of the vessel shall be established by a United States Coast Guard Certificate of Inspection. If a vessel has no U.S.C.G Certificate of Inspection, the vessel's capacity shall not exceed six passengers.

(b) The maximum number of passengers per outing shall be seventy passengers. Passengers may be loaded and unloaded only at the Heeia Kea Small Boat Harbor pier.

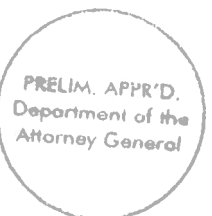
(c) The vessel shall be equipped with a United States Coast Guard approved marine sanitation device.

(d) The vessel shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(e) Educational and not-for-profit tours shall not be counted against daily customer limits, but shall not exceed the maximum number of seventy customers allowed per outing. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(f) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited. Additional motorized and non-motorized vessels and equipment not authorized on the effective date of these rules by the department shall not be allowed.

(g) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in



the business shall result in assessment of business transfer fee in accordance with section 13-256-7.

(h) An exchange of passengers between the glass bottom boat tour permittee and any other permittee shall not be allowed." [Eff]

(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

71. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.8 to read as follows:

"§13-256-73.8 Replacement vessels size restrictions. (a) Replacement vessels shall not be greater in vessel length overall than 10 % of the vessel overall length authorized on May 22, 2000.

(b) Replacement of any existing vessels or equipment shall require prior written approval by the department." [Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

72. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.9 to read as follows:

"§13-256-73.9 Shuttling restrictions. No shuttling or transferring of customers among the permittees for the purpose of exceeding the maximum daily customer limit specified by type of permit or exceeding the certified passenger capacity of the vessel shuttling or receiving the passengers shall be allowed." [Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37,

200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

73. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.10 to read as follows:

"§13-256-73.10 Permit Issuance. (a) Permittees holding valid commercial use permits on the effective date of this rule shall be offered the opportunity to apply for the permit category in which they are operating upon the expiration of their respective permits. If any permit offer is refused by the permittee, that permit shall not be issued and shall be eliminated from the total number of Kaneohe Bay ocean waters commercial use permits.

(b) Permit applications shall be reviewed for compliance with chapter 200, HRS, applicable rules, and permit conditions. Failure to comply with any permit condition, or having any record of inaccurate submission of gross receipts, inconsistent or untimely payments of fees and charges, or unsafe operations during the last term of a valid permit held by the applicant, may be cause for rejection of the permit application.

(c) The following documents shall be submitted for review at the time an application is made for the issuance of a permit:

- (1) Vessel documentation or registration.
- (2) Vessel certificate of inspection (if applicable).
- (3) Certificate of business liability insurance which insures all activities of permittee, including coverage for the operation of thrill craft or other activities including, but not limited to, canoeing, sailing, windsurfing, water sledding, snorkeling, scuba diving or

other underwater activities, if applicable,
and naming the State of Hawaii as an
additional insured.

- (4) Certificate of good standing from the
Department of Commerce and Consumer Affairs.
- (5) Tax clearance certificate from the
department of taxation.
- (6) Conservation district use permits (if
applicable).
- (7) Affidavit describing any and all accidents,
or safety related issues or events,
including those affecting employees or
customers that have occurred within the past
year.
- (8) Affidavit describing any and all warnings,
discrepancies, citations, fines, penalties and
convictions levied by the United State Coast
Guard, department of land and natural
resources, Honolulu police department, City
and County of Honolulu, department of planning
and permitting, or any other regulatory
agency.
- (9) Affidavit describing any and all sales or
transfers of any ownership interest in the
business.

(d) The department shall publish a list of Kaneohe
Bay waters commercial use permits scheduled for issuance
to incumbent permit holders thirty days prior to the
expiration dates of the preceding permits issued in a
newspaper of general circulation in the Kaneohe area,
with a copy to the Kaneohe Bay Regional Council,
inviting public comment on this list and the incumbent
permit holders. Any request that a permit not be issued
must be accompanied by factual supporting documentation
showing the incumbent permittee's failure to meet permit
issuance requirements of this chapter.

(e) Insurance requirements for all commercial vessels and all activities conducted on or in the water of Kaneohe bay shall be not less than \$50, 000 for property damage and not less than \$1,000,000 for liability. The liability insurance shall name the State of Hawaii as an additional insured. Any subcontractor employed by a permittee, such as, but not limited to, a scuba diving instructor, shall have insurance coverage which provides the same coverage as required of the permittee and names the State of Hawaii as a additional insured. The permittee and its subcontractors shall provide to the Department certificate(s) of insurance that cover any and all activities conducted under the permit.

(f) In the event an application for the issuance of a new permit is denied, the applicant will be afforded the opportunity for a hearing in accordance with section 13-231-31 and section 13-231-32 for the sole purpose of allowing the applicant to contest the basis of the denial. The opportunity of a hearing shall not apply to automatic expiration provisions of these rules."

[Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)
(Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

74. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.11 to read as follows:

"§13-256-73.11 Temporary mooring of vessels authorized for commercial use in Kaneohe Bay at Heeia Kea Small Boat Harbor. Temporary mooring within Heeia Kea Small Boat Harbor for any vessel that is authorized for commercial use in Kaneohe Bay ocean waters shall not exceed a cumulative period of 180 days in the same calendar year." [Eff] (Auth: HRS



§§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39)

75. Chapter 13-256, Hawaii Administrative Rules, is amended by adding a new section 13-256-73.12 to read as follows:

"§13-256-73.12 Kaneohe Bay ocean waters commercial use permit revocation. Revocation of a Kaneohe Bay waters commercial use permit shall be accomplished in accordance with section 13-231-6."
[Eff _____] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39)

76. Chapter 13-256-77, Hawaii Administrative Rules, is amended to read as follows:

"§13-256-77: Kaneohe [commercial high speed boating] recreational thrill craft zone. (a) The [high speed boating] recreational thrill craft zone is the area encompassed by the boundaries of the zone shown on Exhibit "V", dated [May 15, 1990,] April 16, 2001, [and] located at the end of this subchapter and incorporated herein. The boundaries of Zone K are as follows:

[Beginning at a point in the water at the intersection of the Kaneohe Sampan channel ranges extending seaward with an azimuth measure clockwise from True South of 217 degrees, and the Kaneohe Bay waters boundary, establishing the southeastern boundary of the zone; then in a straight line to a point in the water at the intersection of the Kaneohe ship channel ranges extending seaward with an azimuth measure clockwise from True South of 227 degrees, and the seaward boundary of Kaneohe Bay

waters, establishing the northwest boundary of the zone.]

Beginning at a point in the water at approximately 21° 28' 23.5" N / 157° 48' 27" W, that intersects the Kaneohe Sampan channel range extending seaward with an azimuth measured clockwise from True South of 217 degrees, and a straight line drawn to a point in the water at approximately 21° 30' 42" N / 157° 48' 52" W, that intersects Kaneohe ship channel range extending seaward with an azimuth measured clockwise from True South of 227 degrees, establishing the southwestern boundary of the zone. The northwestern boundary of the zone is the straight line that is an extension seaward of the Kaneohe ship channel range with an azimuth measured clockwise from True South of 227 degrees to the limit of the territorial sea. The southeastern boundary of this zone is the straight line that is an extension seaward of the Kaneohe Sampan channel range with an azimuth measured clockwise from True South of 217 degree to the limit of the territorial sea.

As an aid in locating the southwestern boundary, it exists between the Kaneohe Sampan channel and Kaneohe Ship channel ranges along a straight line which can be seen by sighting a straight line between Pyramid Rock which is located at approximately 21° 27' 42" N / 157° 45' 48" W, and Kaoio Point which is located at approximately 21° 32' 03" N / 157° 50' 16" W.

This zone is designated as a [commercial high speed boating] recreational thrill craft zone. Other vessels shall exercise caution when transiting this area. [No more than four commercial operating area use permits for high speed boating shall be issued for this zone. This zone shall be closed to commercial high speed boating annually, during the whale season, from December 15 to May 15 of the

PRELIM APPR'D.
Department of the
Attorney General

following year.]" [Eff 2/24/94; am]
(Auth: HRS §§200-22, 200-23, 200-24, 200-37, 200-39)
(Imp: HRS §§200-22, 200-23, 200-24, 200-37, 200-39)

77. Material, except source notes, to be repealed is bracketed. New material is underscored.

78. Additions to update source notes to reflect these amendments are not underscored.

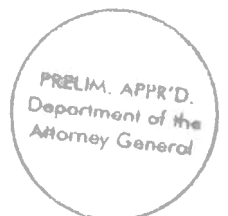
79. These amendments to Title 13, Subtitle 11 Ocean Recreation and Coastal Areas, Parts I, II, and III, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

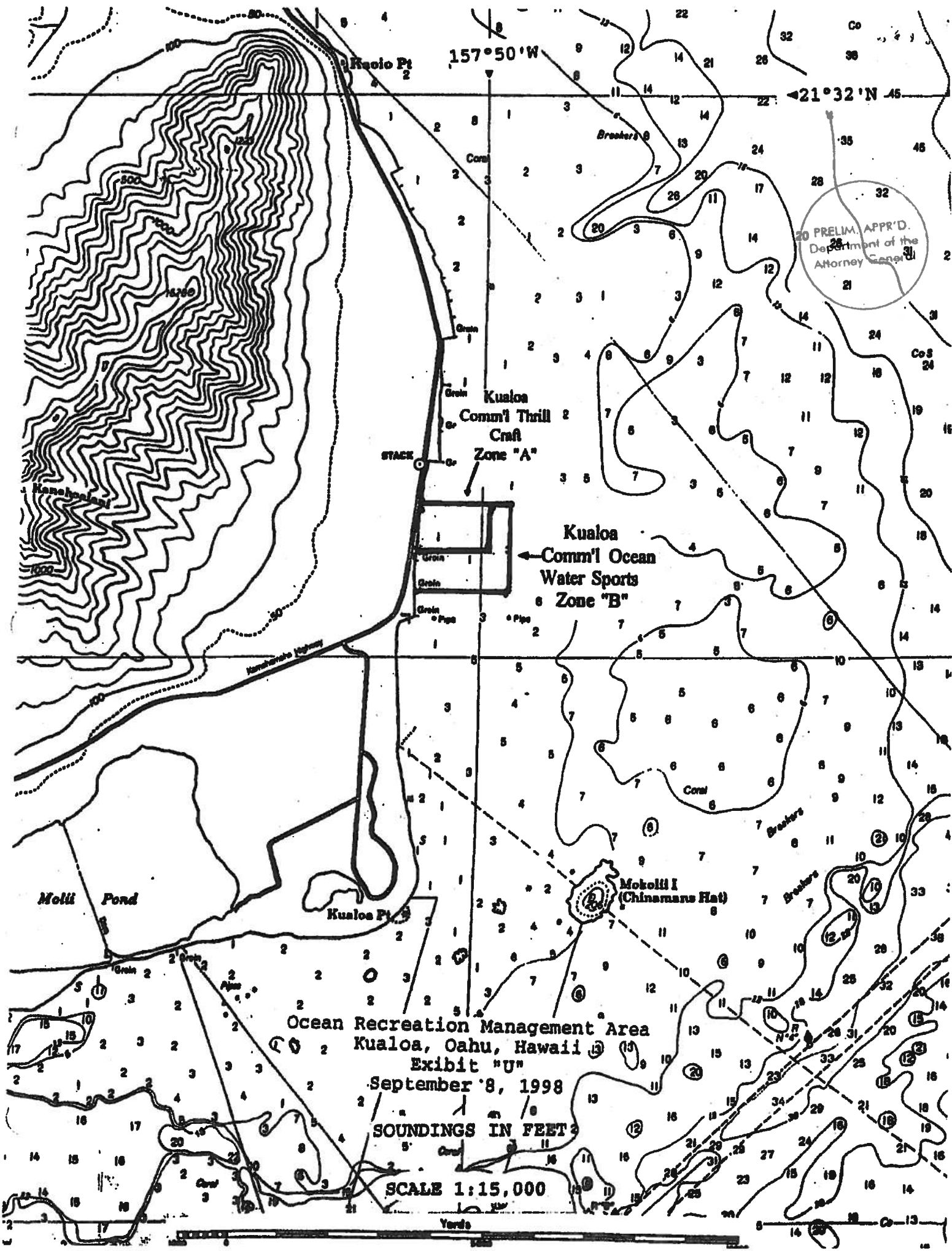
I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ by the Board of Land and Natural Resources, and filed with the Office of the Lieutenant Governor.

Laura H. Thielen, Chairperson
Department of Land and Natural
Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General





157°50'W

21°32'N

PRELIM. APPR'D.
Department of the
Attorney General

Kualoa
Comm'l Thrill
Craft
Zone "A"

Kualoa
Comm'l Ocean
Water Sports
Zone "B"

Moku Pond

Moku I
(Chinaman's Hat)

Ocean Recreation Management Area
Kualoa, Oahu, Hawaii

Exhibit "U"
September 8, 1998

SOUNDINGS IN FEET

SCALE 1:15,000

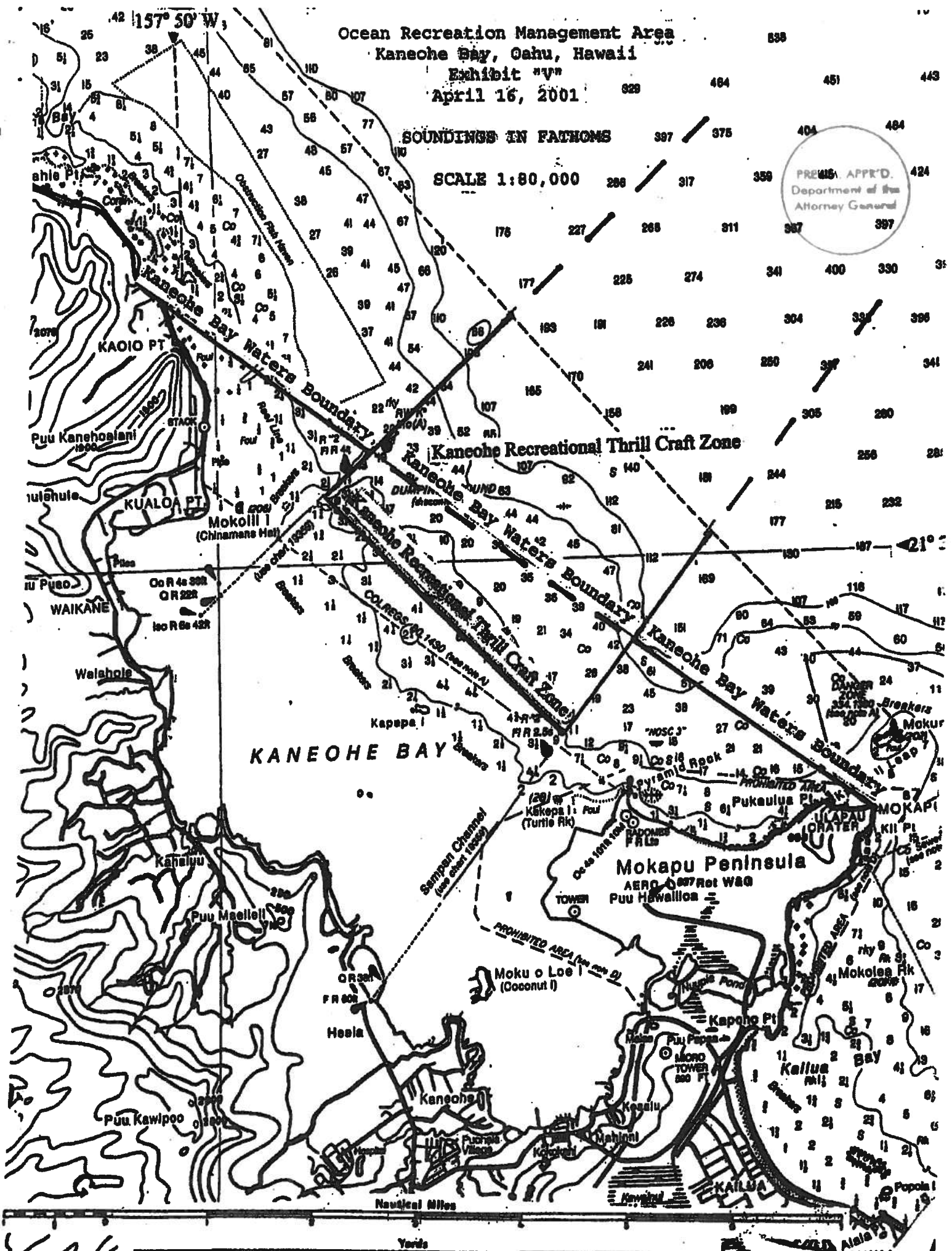
Yards

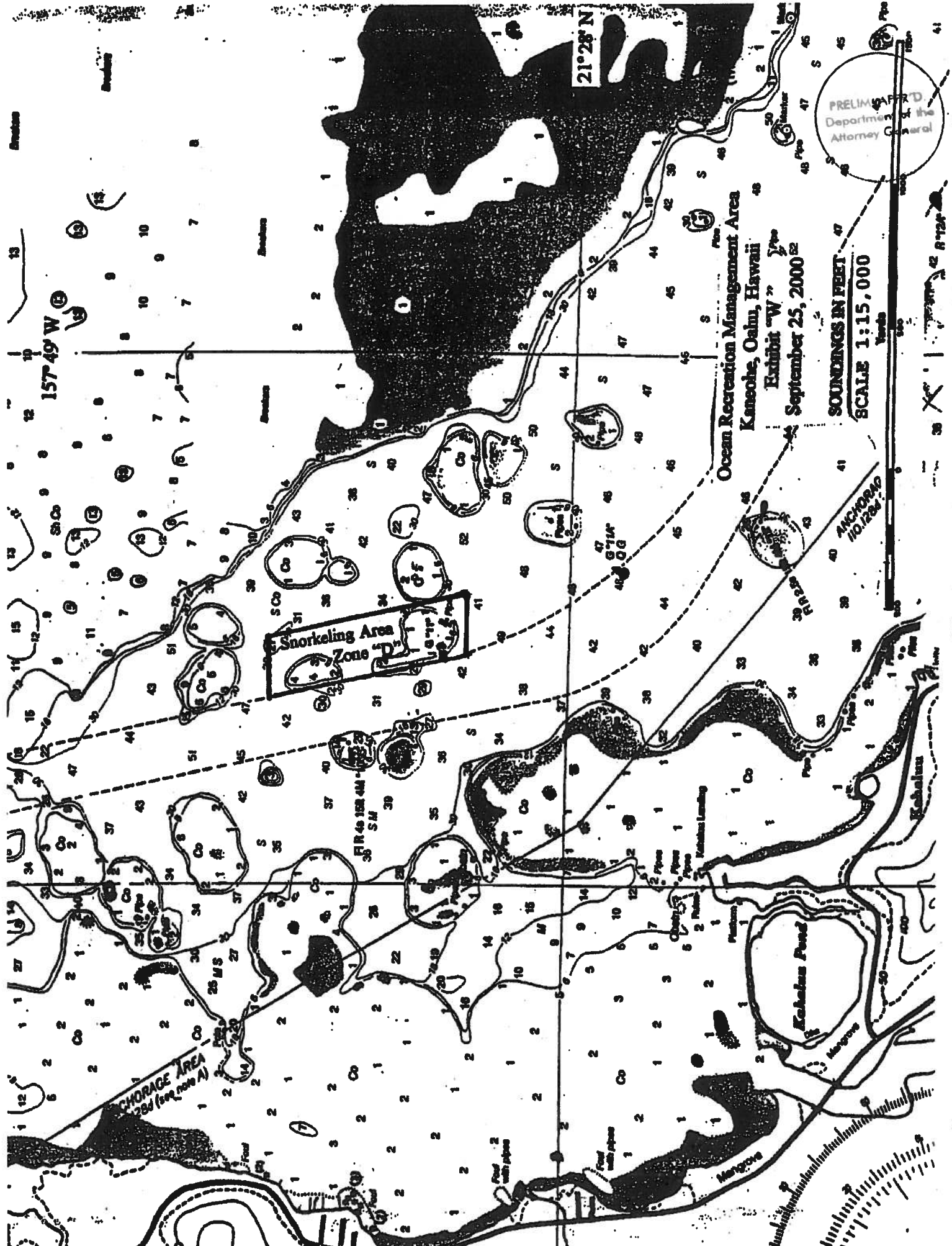
Ocean Recreation Management Area
Kaneohe Bay, Oahu, Hawaii
Exhibit "V"
April 16, 2001

SOUNDINGS IN FATHOMS

SCALE 1:80,000

PREPARED BY
Department of the
Attorney General





21° 28' N

157° 49' W

Ocean Recreation Management Area
Kaneohe, Oahu, Hawaii
Exhibit "W"
September 25, 2000

SOUNDINGS IN FEET
SCALE 1:15,000

ANCHORAGE
10.1284

Kahala Pond

Kahala Landing

Mangrove

Mangrove

Mangrove

Mangrove

Mangrove

Mangrove

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Mangrove

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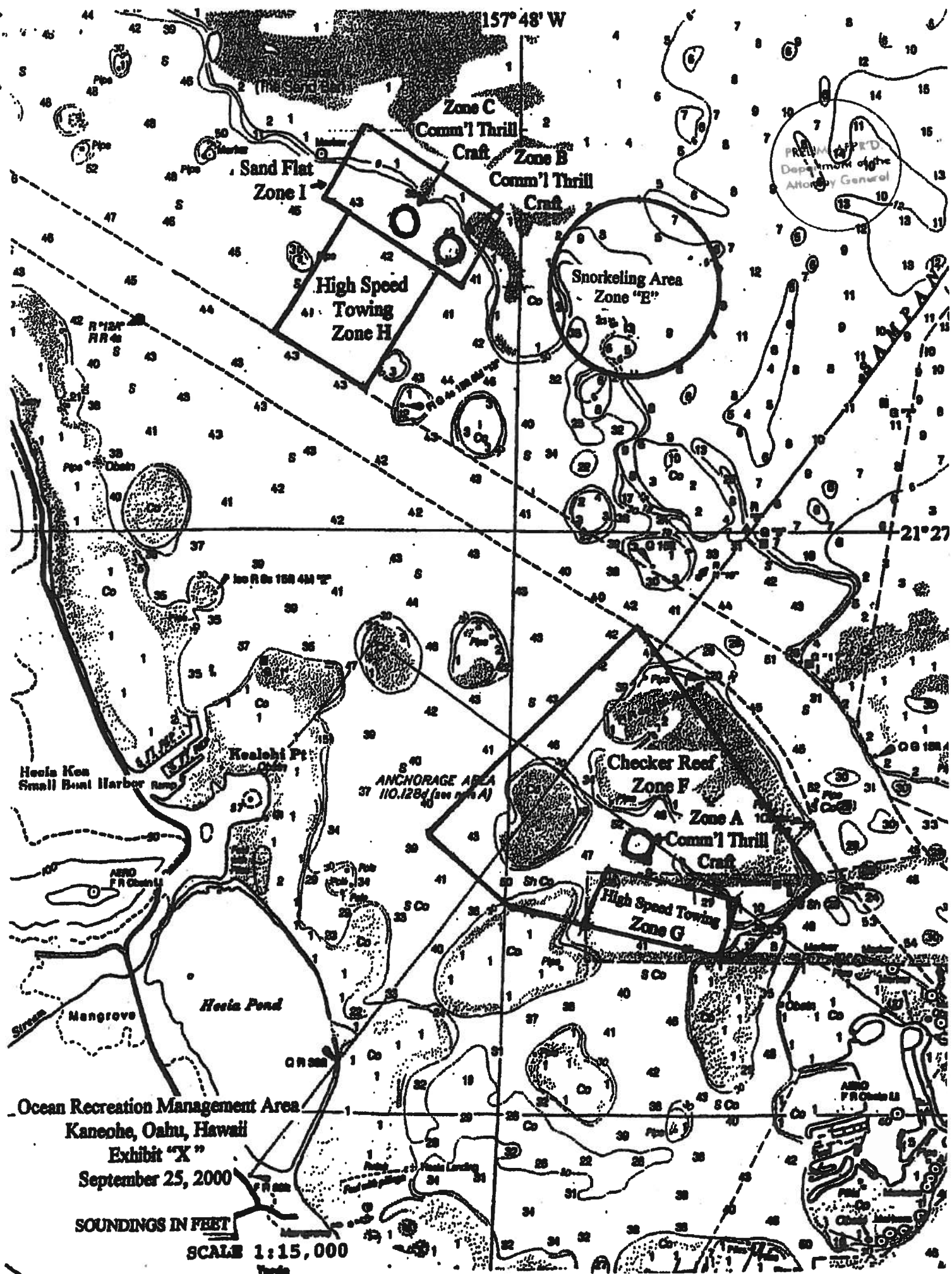
Mangrove

Mangrove

Mangrove

Mangrove

Mangrove



Index of amendments to Title 13, Subtitle 11, Ocean Recreation and Coastal Areas, Parts I, II, and III, Hawaii Administrative Rules, as shown in Exhibit A.

<u>HAR</u>	<u>Amendment</u>	<u>Purpose</u>
13-230-8	Definitions	Dormant Vessel, temporary mooring, stay aboard, catwalk, bow-stern mooring
13-230-21	Personal Partner	Adds Personal Partner definition
13-230-27	Out-of-State tenant	Requires Caretaker for out-of-state resident
13-231-4	Temporary Use Permit	Increases time from 90 to 120 days
13-231-5	Mooring Permit Renewal	Provide an opportunity to renew an expired mooring permit due to unforeseen circumstances
13-231-6	Commercial Use Permit	Suspends permit for 30 day delinquency
13-231-13	Transferability of Permit	Clarifies transferability of use permit
13-231-22	Transient Vessel	Extends stay aboard time
13-231-25	Exchange of Berth	Clarifies the term “characteristics”
13-231-26	Liveaboard	Adds personal partner definition
13-231-27	Liveaboard	Changes issuance from “shall” to “may”
13-231-28	Stay Aboard Vessel	Adds Personal Partner and increases time
13-231-29	Vacation Vessel	Adds Personal Partner
13-231-45	Vessel Inspection	Requires vessel to move and surveyors to be a member of a national recognized organization
13-231-57	Commercial Vessels	Increases occasional use from 8 to 24 times
13-231-58	Commercial Use Permits	Amends limits for commercial vessel mooring
13-231-59	Vessels Moored Elsewhere	Amends language for clarification
13-231-61	Commercial Reissuance	Adds water sports equipment category
13-231-67	Commercial launch Ramps	Amends limits at various launch ramps
13-233-8	Removal of Vehicles	Amends language for clarity
13-233-27	Parking Fees	Amends language for clarity
13-233-28	Parking Permits	Amends language for parking permits

Exhibit B

13-233-29	Parking Permits	Adds Personal Partner and new category
13-233-30	Parking Permit Replacement	Amends language for clarity
13-233-31	Transfer of Permits	Repealed
13-233-32	Cancellation of Permit	Amends language for clarity
13-233-33	Revocation Parking Permits	Amends language for clarity
13-233-34	Violations and Penalties	Amends language for clarity
13-234-1	General statement	Clarifies waiver of fees
13-234-13	Gear locked fee	Amends gear locker fee
13-234-15	Waiver of Fees	Clarifies waiver of fees
13-234-16	Permit Processing Fee	Amends fees
13-234-26	Passenger Fees	Amends Cruise Ship Fees
13-234-28	Negotiable Instruments	Amends service charge
13-234-29	Vessel Inspection Fee	Amends vessel inspection fee
13-234-31	Commercial Use Fee	Amends fee to conform with statutes
13-243-5	Marine Examination Decal	Repealed
13-244-15.5	Mandatory Education	Requires vessel operator certificate
13-244-19	Marine Event Permits	Clarifies language, imposes \$25.00 fee
13-256-5	Commercial Use Permits	Adds high speed boating & water sledding
13-256-11	Commercial Use Fees	Amends fee to conform with statutes
13-256-16	Thrill Craft Operations	Repeals inst. of higher ed. stipulation, requires use of kill switch lanyard.
13-256-17	Thrill Craft Operations	Repeals two-mile limit, allows for transiting seaward through ORMA
13-256-18	Water Sledding	Allows water sledding to occur designated commercial in thrill craft areas
13-256-22	Tow-in Surfing	Clarifies high surf warning definition
13-256-24	Kauai Tow-in surfing	Clarifies operating areas and requirements
13-256-32	Kauai North ORMA	Establishes minimum requirements

13-256-33	Issuing Commercial Permits	Hanalei Bay commercial permits
13-256-34	Permit Applications	Clarifies permit application requirements
13-256-35	Report Permit Changes	Clarifies language
13-256-36	Hanalei River	Repealed
13-256-37	Commercial Use Permit	Clarifies language
13-256-38	Anini Beach Ocean water	Defines permitted commercial activity
13-256-39	Hanalei Bay Ocean Water	Defines permitted commercial activity
13-256-42	Ke'e Beach	Vessel operating restrictions
13-256-52	Nawiliwili Bay	Authorizes two surf school operations
13-256-54	Koloa Landing	Limits the number of commercial SCUBA permits
13-256-56	Wailua River	Clarifies the use of Wailua river and marina
13-256-57	Kihouna Bay	Clarifies the use of Kihouna Bay

Kaneohe Bay, Oahu, Draft Rules

13-256-71	Definitions	Defines "Commercial ocean use activities" and "Family member"
13-256-72	Kualoa restricted Zones	Defines commercial use areas
13-256-72.1	Kualoa Permit restrictions	Defines commercial permit restrictions
13-256-73	Kaneohe Bay waters	Clarifies commercial activities and areas
13-256-73.1	Kaneohe Bay Permits	Defines Permit type and conditions
13-256-73.2	Large Full Service Permit	Defines large full service permits and conditions
13-256-73.3	Small Full Service Permit	Defines small full service permits and conditions
13-256-73.4	Small Full Service Permit	Defines permits without certain activities
13-256-73.5	Large Snorkel tour Permit	Defines permit conditions
13-256-73.6	Small sail/snorkel permit	Defines permit conditions
13-256-73.7	Glass Bottom Boat Permit	Defines permit conditions
13-256-73.8	Replacement Vessels	Defines replacement vessel size restrictions

13-256-73.9	Shuttling Restrictions	Prohibits transferring customers between permittees
13-256-73.10	Permit Issuance	Defines permit issuance conditions
13-256-73.11	Temporary Mooring	Defines length of time a commercial vessel can temporarily moor
13-256-73.12	Permit Revocation	Defines permit revocation procedures
13-256-77	Recreational Thrill Craft	Defines recreational thrill craft zone